Public Utilities

FORTNIGHTLY

December 18, 1947

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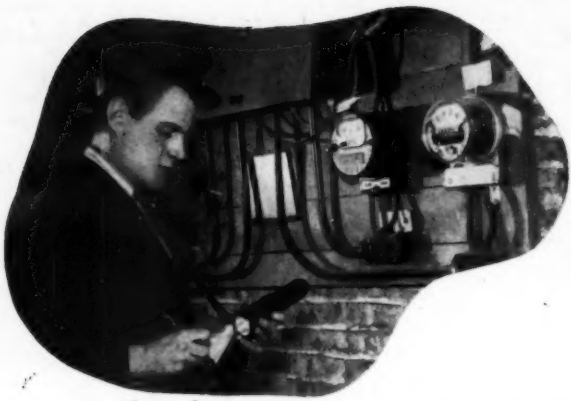

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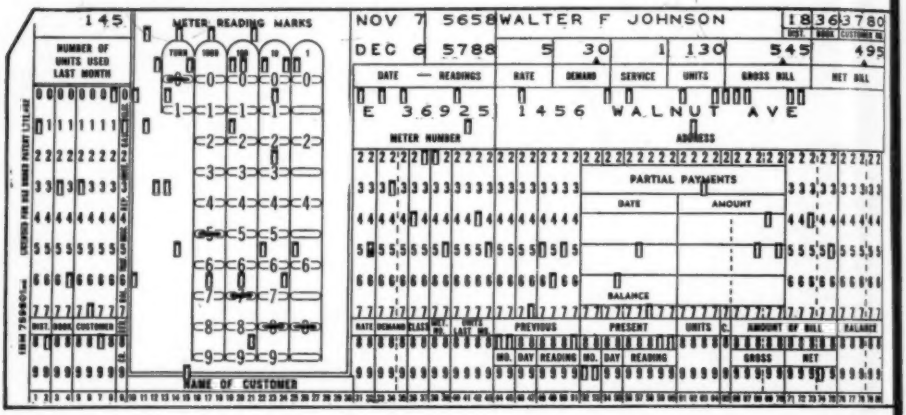

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Associate Editors—NEIL H. DUFFY, DONALD E. ROBINSON, RALPH S. CHILD, JOHN J. HASSETT
Financial Editor—OWEN ELY
Assistant Editor—M. C. MCCARTHY

Public Utilities Fortnightly

VOLUME XL *December 18, 1947* NUMBER 13

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Public Utilities Fortnightly Extends to
Its Many Patrons and Readers
Cordial Good Wishes for
Christmas and the
New Year.

Pages with the Editors

ASSUMING, as Holy Scripture tells us, that it is more blessed to give than to receive, the holiday period of 1947-48 ought to be a very blessed one in the United States. From all sides, all countries, and all classes come demands for aid: hard-pressed friendly nations, beggared former enemies, and hard luck former Allies—all ask in the name of suffering humanity. And in the true spirit of Christmas Day, the scope of our assistance is not even measured by the limits of Christendom itself. The Turk, the Chinese, and the benighted peoples of all faiths, and even those without any ostensible faith, will receive the fruits of our blessings in the one major nation of the world on which fortune seems to smile the most.

WARD F. DAVIDSON

IT should therefore be with a deeper appreciation of the true significance of the Christmas spirit that we enter into this holiday season. Much is being asked of us because much has been given to us. And if the hope of peace, for which we traditionally pray at this season, seems more elusive than ever, Americans all, can at least take satisfaction in knowing that the nation, as a whole, is responding to the call which the spirit of the season imposes upon us.

MAY we take this occasion to wish each and everyone of our readers and friends a well-deserved Merry Christmas and Happy New Year?

"THE honeymoon is ended," the vaudeville joker used to say, "when the bridegroom begins to pay more attention to the right-hand column of the menu than to the left."

THE honeymoon between the investor and the bond market has been going on a long time—several years. But there is evidence that at least the large institutional investors are beginning to look more at the yield and less at the source, than in the days not so long ago when any prime offering attracted a swarm of buyers at a meager yield. If these indications forecast a definite trend toward higher cost of money, it would seem to be that the long period of fruitful refunding for utility obligations may well be drawing to a close.

WHAT is more, even junior securities, notably preferred stock, will not look too well in a general money market where senior offerings have to increase the yield to command a better market. Even the controversial "reform"—if one cares to call it such—of competitive bidding does not seem to be much of a protection against the ominous trend of higher money cost for public utilities; for that is what it would all boil down to if the honeymoon is really ended.

ERNEST CLIFFORD POTTS

As usual, the financial experts discover a number of causes and seem unable to agree on any one as the *sine conditio qua non*. International complications, shortages of materials and man power, labor troubles, and general uncertainty of the times—all are thrown up as so many feathers in the wind, but they do not tell us definitely why the wind is blowing. The over-all suggestion of "inflation" is so general that it almost begs the question.

BUT can this trend, if it definitely develops, continue indefinitely? If inflation is attacked from every side on every practical front, and savings are put into high-grade bonds or any long-term investment, it may well be that the dollar will buy more in 1957 than it does today. That was the experience of bond buyers during the inflationary period of the early Twenties. In short, the honeymoon may be over, but there would seem to be no reason to fear a permanent estrangement between the investor and the better-grade bond market if the public and those in authority do all that is necessary to keep the inflation from getting out of hand.

IN this issue, we are fortunately able to present a very timely and penetrating analysis of this subject by our financial editor, OWEN ELY, in his article beginning page 818, entitled "Bull Market in Bonds Ended."

ANOTHER timely subject covered in this issue is the article on "Nuclear Energy for Power" (beginning page 833), which is, in effect, the substance of a paper presented on this subject by WARD F. DAVIDSON to the World Power Conference at its session at The Hague last September. MR. DAVIDSON, who is a new contributor to our pages, was born in Commonwealth, Wisconsin, and is a graduate engineer of the University of Michigan (BS, '13; MS, '29). He started his professional career with the Westinghouse Electric & Manufacturing Company in 1914. After some teaching experience at his alma mater, and military experience with the Army Engineers (Major with the AEF in World War I), DAVIDSON joined the Brooklyn Edison Company in 1922 and for a number of years has been director of research with the Consolidated Edison Company.

DURING World War II he was a consultant to the chairman of the National Defense Research Commission and also the Smaller War Plants Corporation. He has been continuously active in numerous professional and industrial organizations such as the Edison Electric Institute and fellowship in the American Institute of Electrical Engineers.

* * * *

ERNEST CLIFFORD POTTS, whose article on the adverse effect of Federal power monopoly is the opening feature of this issue, is a veteran newspaper man living in Portland, Oregon. He was graduated (BA) from Doane College, Nebraska, and after a short period of teaching high school went directly into newspaper work in Nebraska. He moved further west during the "dust bowl" exodus, joining first the *Boise* (Idaho) *Statesman* and then did an 11-year hitch with *The* (Portland) *Oregonian* and three years as associate editor of the old *Business Chronicle* in Seattle. He is now financial editor of the *Oregon Voter*.

THE next number of this magazine will be out January 1st.

The Editors

In This Issue

In Feature Articles

In Washington and the Utilities

In Exchange Calls and Gossip

In Financial News

In What Others Think

In The March of Events

In The Latest Utility Rulings

Remarkable Remarks

"There never was in the world two opinions alike."
—MONTAIGNE

ANDREW H. PHELPS
Vice president, Westinghouse Electric Corporation.

"Keystone of the whole American system of free enterprise and opportunity is the everyday relationship of our individual right to buy and sell."

EDITORIAL STATEMENT
The Chicago Journal of Commerce.

"Confiscatory tax rates destroy the incentive to expand. They tax away the profits that could build a greater industry, and they sow the seeds of depression."

HARRINGTON WIMBERLY
Member, Federal Power Commission.

"As a result of the elimination of 'monkey business' in the utility field, and fair regulation, utilities today are able to borrow money at the very favorable interest rates of from 2½ to 3 per cent."

Excerpt from General Electric Company's report to stockholders.

"If all profits are siphoned off into higher wages it will become impossible for the company to obtain the risk capital necessary for the future conduct of its business, just as it will deprive the public of lower prices and increasing purchasing power."

G. METZMAN
President, New York Central System.

"Under private enterprise, business problems are considered on the basis of economic necessity; under nationalization, they are considered on the basis of political expediency. Nationalization has nothing to offer in transportation that cannot be provided by private enterprise."

EDITORIAL STATEMENT
The Wall Street Journal.

"It is likely that most labor leaders quite well realize the basic idiocy of their charges of refusal to bargain. But it is also likely that some of them have become so accustomed to wielding power, and so accustomed to government agencies coming to their rescue that they really believe that it is illegal for an employer to refuse to grant their demands, at least in some part."

JOHN P. FREY
President, metal trades department, American Federation of Labor.

"Labor is fully justified in using every lawful method to protect itself from those responsible for higher prices, and who now, to divert attention from their own responsibility, have the audacity to accuse labor of blame. These groups—agriculture, manufacturers, and retailers—in their eagerness for greater gains, are embarked on a program which, unless stopped, will bring economic ruin to our country."

DONALD K. DAVID
Dean, Harvard Business School.

"Taxes no longer are merely a minor item in business management, but have become a major factor in the making of business decisions. To reach a sound basis for national policy, however, we need to substitute facts for opinions in this field."

EDITORIAL STATEMENT
The Nation.

"The average American used the telephone 301 times in the course of the year, and there are more than 30,000,000 telephones in this country. Russia, on the other hand, has only 1,500,000. But perhaps that's enough, considering that they are all on a party line."

HENRY A. WALLACE
Editor, New Republic.

"If the Truman doctrine were really a doctrine for liberals, it would be greeted with joy in Europe, where its impact is plain. Instead, it has been greeted with fear and dismay. In all my journey I found only one group ready to endorse this doctrine, the group of extreme right wingers led by Winston Churchill."

FULTON LEWIS, JR.
Radio commentator.

"It is abundantly clear to me that if the exemptions for farm coöperatives were removed, and Congress were to declare that the annual margin between the costs of operation and the income of the coöperative is to be considered profit, in the same sense that it is considered profit in private enterprise, the whole problem would be solved."

NEIL W. CHAMBERLAIN
Assistant professor of economics, Yale University.

"In the passage at this time of legislation such as the Taft-Hartley Act, unions are confronted with sharpened realization that their great growth of power has not been fully recognized, for it is given no constructive rôle. They are to be put in their place, like unruly children, rather than to be accepted as permanent, desirable, and usable social organizations."

P. P. STATHAS
Partner, Duff & Phelps (security analysts).

"The fuel of the utility power plant accounts for only about 12 per cent of the price paid by the average residential customer. Thus, even if atomic energy were to be obtained at no cost whatever, the reduction in the price paid for electric service would be relatively inconsequential. The bulk of the cost for rendering electric service is attributable to the transmission, distribution, and general departments of the business."

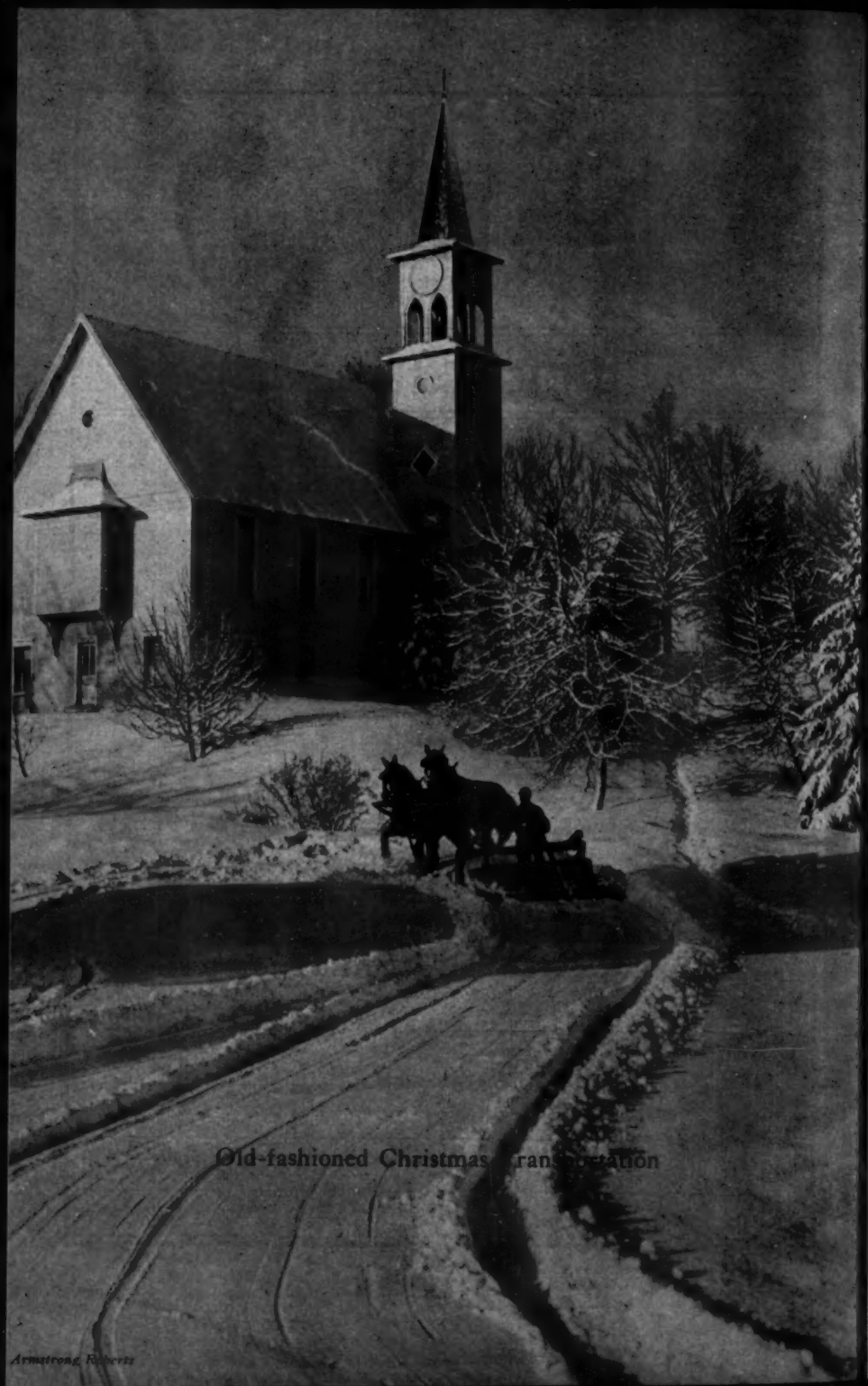
T. H. BARTON
Chairman, Lion Oil Company.

"An industry [oil] which has been able to meet successively greater demands from year to year upon all its facilities to improve steadily the quality of its products and to maintain one of the highest wage scales of any industry, deserves recognition. The fact that the quality of gasoline has increased immeasurably while the cost, excluding taxes, has been cut in half over the last twenty-five years is a stimulating symbol of the potential of free enterprise which every American should know."

Utilities Almanack

December

18	Th	¶ *The Metropolitan Traffic Association of New York holds annual Christmas luncheon, New York, N. Y., 1947.*
19	F	¶ *Canadian Electrical Association will hold winter conference, Quebec, Canada, Jan. 12–18, 1948.*
20	Sa	¶ *American Water Works Association, New York Section, will hold mid-winter luncheon, New York, N. Y., Jan. 20, 1948.*
21	S	¶ *American Gas Association, Home Service Committee, will hold meeting, Chicago, Ill., Jan. 21–24, 1948.*
22	M	¶ *American Institute of Electrical Engineers will hold winter general meeting, Pittsburgh, Pa., Jan. 26–30, 1948.*
23	Tu	¶ *Eighth International Heating and Ventilation Exposition will be held, New York, N. Y., Feb. 2–6, 1948.*
24	W	¶ *New England Gas Association will hold annual meeting, Boston, Mass., Mar. 18, 19, 1948.*
25	Th	¶ *Merry Christmas, 1947!*
26	F	¶ *Southern Gas Association will hold annual convention, Galveston, Tex., Mar. 24–26, 1948.*
27	Sa	¶ *Mid-West Regional Gas Sales Conference will be held, Chicago, Ill., Mar. 29–31, 1948.*
28	S	¶ *Gas Appliance Manufacturers Association will hold annual meeting, Chicago, Ill., Apr. 5–7, 1948.*
29	M	¶ *American Political Science Association begins convention, Washington, D. C., 1947.*
30	Tu	¶ *Edison Electric Institute-American Gas Association will hold accounting conference, St. Louis, Mo., Apr. 12–14, 1948.*
31	W	¶ *Gas Meters Association of Florida and Georgia will hold annual meeting, Hollywood, Fla., Apr. 15–17, 1948.*



Old-fashioned Christmas transportation

Armstrong Roberts

Public Utilities
FORTNIGHTLY

VOL. XL, No. 13 DECEMBER 18, 1947

Some Adverse Effects of a Federal Power Monopoly

Deterrent influence of the great government hydro projects—started ostensibly for navigation and flood control—on the customary forward planning and building of generating facilities by the Northwest's large privately managed power utilities.

BY ERNEST CLIFFORD POTTS*

LARGE benefits have accrued to the Pacific Northwest from the development of the huge Bonneville-Grand Coulee power system by the Federal government. People of the Northwest and much wider area are not allowed to forget about the benefits. These have been advertised extensively, even from the halls of Congress.

That is all very well, but there is another side to the picture which also should be known. With the passing of time some unfavorable results have appeared. There is no great difficulty in perceiving them.

It is proposed here to examine certain of the adverse impingements of the Federal power program in the Columbia river area. Scrutiny will be confined to undesirable economic effects of broad public nature such as would interest any geographic sector where a similar program might be attempted. This means, as will be explained, that impingements harmful only to the existing power utilities, or almost exclusively to them, are to be passed.

It may as well be said at once that

* For personal note, see "Pages with the Editors."

we shall find ourselves concerned chiefly with the question of monopoly.

Monopoly control of electric power by the Federal agency, so it happened, was handily achieved in the relatively small Tennessee valley. Despite high-pressure efforts it has not been similarly attained in the ten times larger Columbia river area, with its quota of five large private-management power utilities—six until recent months—within the Bonneville Power Administration sphere and three more on its fringes.

IN a very able article in PUBLIC UTILITIES FORTNIGHTLY of June 5th,[1] under title "It Is Not in the Cards," President Frank McLaughlin of Puget Sound Power & Light Company expounded the view that private-management companies cannot now survive in competition with publicly owned power agencies. His view seems valid as applied right now in cases of direct competition between fully integrated systems. But there seems a definite possibility for survival of investor-owned utilities functioning primarily as power distributors, the survival possibly to be made easier in time through elimination of part of the existing tax advantage of the subsidized agencies. However, the question of whether the Federal agency eventually may gain control over all electric power sources is not importantly relevant in this survey.

The public, even in the Pacific Northwest, very largely has lost sight of the fact that the great Federal developments on the Columbia river were, in their inception, not hydro-electric projects. "The construction of the great Federal developments on the Columbia river," said Franklin T. Griffith, widely known leader of the electrical industry, "began ten years ago ostensibly and professedly to improve the navigation facilities of the Columbia and to provide for the reclamation and irrigation of one and a quarter million acres of arid but fertile land in the Columbia river basin almost entirely owned by the Federal government. The development of electricity was professedly an incident only, to the major purposes of navigation and reclamation."

MOST of those reading these lines will recall that the Tennessee Valley project, a little earlier than the Columbia river works, was designed primarily as a flood-control undertaking. For a considerable period after completion of its first dams there was grave debate over the constitutional right of the government to produce and sell large amounts of power from those works. While the New Deal took us rather precipitately away from that hesitancy and on past the late President's original power-rate "yardstick" concept, there was no avowed intent, at the inception of these valley projects, that they should develop primarily into electric power monopolies. They were not even conceived, initially and fundamentally, as power developments. So this subsequent idea in some circles that these river works should be so managed as to be developed into power monopolies in their respective areas was very much of an afterthought. The Bonneville Act contained no such idea, and in its recent sessions Congress has shunted aside

[1] Vol. XXXIX, No. 12, at page 738.

Monopoly of Electric Power

"It is a well-known fact that Bonneville Power Administration, as organized under domination of the power division of the Department of the Interior, has worked steadily to bring the Columbia river area 100 per cent under a public power control. The point needs be noted that this leadership has sought not mere domination of new power supply, but has worked to gain complete monopoly through take-over of existing plants."

"authority" bills which would sidle along toward monopoly.

It is a well-known fact that Bonneville Power Administration, as organized under domination of the power division of the Department of the Interior, has worked steadily to bring the Columbia river area 100 per cent under a public power control. The point needs be noted that this leadership has sought not mere domination of new power supply, but has worked to gain complete monopoly through take-over of existing plants. Aside from the injury done to the companies brought under the shadow of death there has been real harm to the economic welfare of the area.

One brief illustration of the unauthorized pressure intended to further the monopoly scheme should suffice. Portland General Electric Company in 1940 obtained a one-year renewal of a power purchase contract. In 1941 it sought a renewal, particularly questing a contract of longer term. At the time there was high hope in the public ownership ranks in Oregon that a way might be devised for a take-over of the $65,000,000 Portland utility. Dr. Paul J. Raver, BPA Administrator, flatly refused to grant any contract not containing an "upset" price at which Portland General Electric would sell itself to BPA or other public agency.

After much bickering the company management reluctantly named a price but this was not acceptable to Administrator Raver and his "cabinet." The Portland Company got no contract to safeguard adequacy of its energy supply—not until a few weeks ago, when BPA simultaneously granted one-year contracts to five operating

companies. Management of the Portland utility has countered the contract denial by filing suit charging that the Federal agency had no authority for making a power contract agreement contingent upon the granting of a purchase option. The suit never came to trial and now may be dismissed.

MUCH the most serious result from the drive of the administrator and colleagues both in Washington and the Northwest toward monopoly is a short quota of generating capacity in the Pacific Northwest. Before detailing the needlessness of this shortage the writer wishes first to note two minor effects which as yet class only as menaces.

There is danger of at least severe curtailment of the region's multimillion-dollar salmon industry through the determination to construct mammoth high dams on main sectors of the Columbia river and its great branch, the Snake. Marking a split in the Department of the Interior, the Fish and Wildlife Service urged a 10-year moratorium on building of new dams below the Grand Coulee area. At a resultant public hearing last summer a BPA spokesman was led to say unequivocally that if there must be a choice between dams and fish, the fish must go.

Some excellent results in maintaining the Columbia's fish runs have been recorded in 1946 and 1947. Lest these results mislead the great majority of persons unfamiliar with the fish problem's peculiarities, attention is directed to a fundamental consideration. Salmon thrive in rough, moving water. Even those returning to spawn and die delight to buck river currents. Bonneville's dam and its 70 miles of repugnant slack water lake reduce the river salmon run no less than 10 per cent.

EXPERTS say that the just-started McNary dam, assuming it virtually duplicates conditions at Bonneville works, including good fish ladders, will reduce runs at that point an additional 15 per cent—that four of these huge dams and pools will diminish the salmon runs, whereas smaller dams on branch streams would make possible their preservation. The salmon, delayed and baffled, would die before negotiating the scores of miles of reservoirs. Grand Coulee dam, that great monolithic fish barricade, already has eliminated probably 30 per cent of the river system's vast spawning grounds. (Annual production of the Columbia fisheries has no such worth as the $100,000,000 erroneously assigned it recently by a great national magazine. Average worth commonly is set at about $30,000,000.)

The second subordinate danger seemingly courted unnecessarily is that now to hang over the region's industrial life through threat of enemy bombs, atomic or otherwise. Centralization of the area's major power sources along main stretches of the Columbia brings this danger. It would be much minimized if there were the normal scattering of power plants. The Federal system could abet the dispersion by less insistence on gargantuan projects for itself. It would much further have contributed to safety through decentralization had it allowed, instead of discouraging, the normal undeterred construction of generating plants by the investor-owned systems, on their own selected

sites. Instead there has been the uncalled-for threat of monopoly.

UNFORTUNATELY the fact is little known that enactment of the Bonneville Act in 1935 served summarily to end the customary forward planning and building of generating facilities by the Northwest's large private-management power utilities. If anything further had been needed to stop the companies from constructing new plants this discouragement was forthcoming in Bonneville Power Administration's steady drive to bring all electric power of Washington, Oregon, and Idaho into public ownership, the sources to be under the administration's control.

No lengthy amount of detail is needed to prove how effective the launching of the government's power developments of the Columbia valley was in putting an end to the planning of new generating units by the companies already serving the area. The statistics of the accompanying table tell the story vividly, convincingly.

In the ten years prior to January 1, 1935, the six important companies definitely in the Bonneville Administration sphere constructed for themselves 416,656 kilowatts of new generating capacity. In the 12-year period, 1935-1946, these same companies added 13,110 kilowatts of generating units. Explanation of the comparison of the current longer span with the 10-year period is that it brings the survey up to date, and the extra two years are inconsequential since the "Bonneville blight," as the paralysis caused by the Federal agency's advent is termed by the *Oregon Voter*, a regional analytical magazine devoted to economics and taxation, quite thoroughly stopped plant building by the privately managed utilities.

ODDLY, it remained for postwar developments to make evident the extent of the paralysis here cited.

TABLE

GENERATING PLANT CONSTRUCTION BY LEADING POWER UTILITIES OF PACIFIC NORTHWEST, BEFORE AND AFTER AUTHORIZATION OF FEDERAL SYSTEM

Kilowatts of Capacity Added in Respective 10-year and 12-year Periods (See Note)

	Added in 1925-34	*Added in 1935-46*
Puget Sound Power & Light Company	200,000	none
Portland General Electric Company	84,775	none
Pacific-Northwestern Companies*	61,817	2,000
Washington Water Power Company	53,000	none
Mountain States Power Company**	17,064	11,110
Totals	416,656	13,110

*Pacific Power & Light in 1947 absorbed Northwestern Electric.

**This smallest of the systems buys nearly all of its power. Its 11,110 kilowatts of new generating capacity was constructed at five different locations, amounts ranging from 250 to 5,000 kilowatts.

NOTE—Twelve-year comparison, bringing figures to latest reports, allowed to stand against 10-year pre-Bonneville decade since it includes only inconsequential 2,760 kilowatts built in the two extra years.

The table presents one set of amazing contrasts. It remained for the postwar period of more accessible material supplies to bring out others, equally as astonishing. At hand now is striking contrast between what is being done by the companies listed in the table — all definitely within the BPA sphere— and companies just outside of that domination.

There are three large power companies operating on the borders of Bonneville Administration's recognized territory: Montana Power Company, Idaho Power Company, and California Oregon Power Company.

Montana Power perhaps has been a little less affected by the advent of the Federal operations than the other two companies, although BPA is to extend its administrative functions over Hungry Horse dam project in Montana. Not only is Montana Power not a suppliant on the BPA doorstep, but currently it is actually sending westward 90,000 peak kilowatts and 50,000 average kilowatts for benefit of the Northwest power pool. Since January 1, 1935, Montana Power has completed units of 101,000-kilowatt capacity and, reports President F. W. Bird, "we are now engaged in putting in an additional 56,000 kilowatts which will be completed next year." That will make 157,000 new nameplate kilowatts of capacity since beginning of 1935. President Bird explains that his company plans to "keep capacity 50,000 kilowatts ahead of load."

IDAHO POWER COMPANY serves up classic illustration of the difference between a Pacific Northwest power utility which has succeeded in avoiding the "blight" induced by the policies and practices of the Federal system and those utilities which have come under that "blight." From the first, BPA has cast eyes upon southern Idaho. It offers a catchily plausible explanation that great quantities of power are needed to process vast potash deposits of the region into fertilizer. Idahoans have not been impressed.

Very luckily, Idaho Power has recovered its ability to finance all necessary expansions, largely because of a belief that it will not at any early date be gobbled into the Bonneville sphere. President C. J. Strike the past summer made known plans to add 100,000 kilowatts of hydro capacity. He said that immediately after VJ-Day his directors "authorized construction of 85,000 kilowatts of additional hydroelectric capacity to provide again a reserve of power to meet the growing demands." At a plant now being completed, 16,500 kilowatts of generation —not included in the 85,000-kilowatt figure, thus accounting for the 100,000 kilowatts total—have just come on the lines. Three other plants of nominal size are to be turning out energy before end of 1949.

CALIFORNIA OREGON POWER COMPANY, at the southern extreme of Bonneville jurisdiction in southwest Oregon, with material shortages now fairly well licked, has the licenses and is proceeding with plans for dam and generating works to have ultimate capacity of 40,000 kilowatts. Two units, each of 13,500 kilowatts capacity, are expected to be finished in 1949.

Before concluding, a quick glance at another policy which has helped hold down the power supply is worth while.

BPA's managers have helped power districts acquire smaller power utilities. In each case these had their own power sources, but they were led to make advance contracts to become BPA customers as early and as fast as possible. Three companies so taken over, with approximate property values to indicate size: Washington Gas & Electric Company, $5,700,000; Grays Harbor Railway & Light Company, $3,500,000; West Coast Power Company, $1,430,000.

Financial losses for thousands of owners of securities of power corporations of the Pacific Northwest in particular, and of the USA in general, occasioned by the government's entry into the hydro-power business were direful. As they were not basically of general economic character they are by-passed here.

It is significant that three large municipally owned systems—Seattle, Tacoma, Eugene — have spent in excess of $32,000,000 on new generating installations since 1938. There has been no threat of liquidation.

Three of the region's largest power systems, which constructed generating units of 337,775 kilowatts capacity in the 1925-1934 decade, have added not a kilowatt since then. The six large systems (now five) within the Bonneville sphere have added 13,110 kilowatts since 1934, but plan no more. Three big systems found to be somewhat removed from the Bonneville liquidation threat have reported the addition of 117,500 kilowatts of capacity since 1938 and have definite plans laid to add 182,000 kilowatts of new supply in the immediate future.

What more needs be said?

"I am only sorry," states one of the utility presidents, doubtless willing to be named if he were asked, "it was impossible for us to proceed with our own generating facilities, as we here in the Northwest would not be facing the situation we now face since the Federal government has preëmpted the field so far as hydro generation is concerned."

The Pacific Northwest's blessing of cheap Federal power needs certain reservations in the appraisal.

"For well over a century business cycles have run an unceasing round. They have persisted through vast economic and social changes; they have withstood countless experiments in industry, agriculture, banking, industrial relations, and public policy; they have confounded forecasters without number, belied repeated prophecies of a new era of prosperity, and outlived repeated forebodings of chronic depression. Men who wish to serve democracy faithfully must recognize that the roots of business cycles go deep in our economic organization, that the ability of government to control depressions adequately is not yet assured, that our power of forecasting is limited, and that true foresight requires policies for coping with numerous contingencies."

—Arthur F. Burns,
Director of research, National Bureau of Economic Research.

Bull Market in Bonds Ended

Effect of the tightening of the investment situation on public utility financing; transfer of initiative in deciding terms of new offerings—competitive bidding, antitrust inquiry, and other factors.

By OWEN ELY*

Both the investment bankers and the utility companies became so accustomed during the 1940's to low money rates and low yields on bonds and preferred stocks that it is hard for them to realize that the bull market in bonds definitely ended early this year. But a glance at the accompanying chart (page 822) will show that during the period 1900-1933 yields on good utility bonds averaged about 4¾ per cent. The "spread" between government bond yields and utility bond yields during this period was usually around 1 per cent. But for three years (until recently) AAA utilities yielded only about 2.60 per cent, with a spread of only .3-.4 per cent as compared with taxable governments.

Obviously, this situation could not prevail permanently.

In 1933 the New Deal administration began "priming the pump," and deficit financing continued during the war and into 1946. In order to reduce the carrying cost of this huge debt, the Treasury Department availed itself of the Federal Reserve machinery to control the government bond market—a device which previous administrations had used only sparingly. It is unnecessary in this article to explain the methods by which this was successfully accomplished.

During the 1930's and also during the wartime period, there was very little corporate financing other than for refunding purposes, and industrial borrowing for war purposes was largely under government control or direction. Hence monetary powers were largely transferred from New York to Washington and a "tight" control was established to insure "cheap money." The corporations, and

*Financial editor, PUBLIC UTILITIES FORTNIGHTLY.

particularly the utilities, rode into the "cheap money" era on the coat tails of the Federal government—about the only favor which they received from the New Deal administration. Through the constant refunding of existing bonds and preferred stocks the electric light and power companies were able, during the decade ended 1946, to reduce interest charges 25 per cent, despite an increase of nearly 80 per cent in output and 60 per cent in revenues. Preferred dividend charges were also whittled down somewhat, but this refunding program did not get under way until about 1944, so that much less was accomplished.

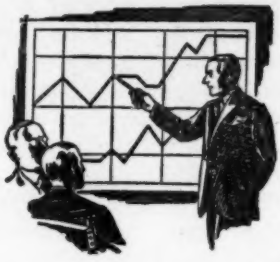
SUDDENLY this picture has changed. The investment situation has tightened up. Insurance companies, the largest buyers of utility bonds,[1] are now more fully invested than for some years. Recently, the Federal government's series H (nonmarketable) issue has absorbed over a billion dollars of institutional and corporate funds. Moreover, savings banks are no longer flush with cash—the inflow of savings is in many cases about matched by special withdrawals to buy homes, cars, household appliances, etc.

The rise in money rates (as reflected in commercial paper) really started in 1942; while the present rate of one per cent is still far below the historical average, it is about double the 1941 level. The yield on government bonds is edging slightly higher; the 2½s of December, 1967-1972, are now around 101.24 compared with 103 in early September and last year's high of 106.16. The latest issue of 91-day Treasury bonds brought an average price of .873 per cent compared with .855 for the previous issue. This background tends to explain the upset in the bond market, at a time when the utilities have begun competing for new capital funds on a large scale.

Two psychological factors also entered into the picture, with respect to the recurrent difficulties with utility financing in recent months. In the first place, the insurance companies and allied institutions (and particularly the so-called "Big Five" who exercise an informal leadership) have now taken the initiative from the investment bankers, in deciding the terms of new offerings—*i.e.*, the retail yield basis for new bond issues and preferred stock offerings. For several years the institutional leaders have chafed over their inability to control yields. Continued refundings deprived them of the excellent yields of former years, until last year their average income receded to a dangerous level, below 3 per cent. They became convinced, apparently, that the only way to remedy the situation and force the bankers to their way of thinking would be to "black ball" important new issues. With many smaller institutions following their lead or imitating their tactics, they were able to stall a number of offerings and to pick up the bonds at lower prices when the syndicates dissolved. Where bonds were "realistically" priced to suit them, however, they were ready buyers, and these issues—substantially out of line with seasoned bonds — in some cases went to an immediate premium.

IN the second place, the practice of competitive bidding (enforced by the SEC and some of the state com-

[1] See "Institutional Holdings of Utility Securities," PUBLIC UTILITIES FORTNIGHTLY, Vol. XL, No. 9, page 556, October 23, 1947.



Increase in Common Stock Financing

"DISAGREEABLE as the policy may be, it may prove necessary for the utilities to increase the proportion of common stock financing in their over-all programs. Despite the present unsatisfactory level of common stocks and the depressing effects of rights on prices, offering to present stockholders is the easiest method of public financing. The issuance of convertible securities, already coming into vogue, should also become increasingly popular."

missions) has played into the hands of the institutions. Even though it is customary for only two or three groups to bid on the large offerings (frequently six or seven compete for the small issues), the competition is keen enough to make the bankers "cut corners." In recent years, successful bidding for important issues has paid off in prestige as well as profits. The system worked all right in a rising bond market, for if the bankers made too optimistic a bid they could "sit out" any resulting irregularity rather than break the syndicate quickly, as has been the practice recently.

But, in the declining market of recent months, competitive bidding has proved unsatisfactory. Even though the large houses which head the bidding groups try to sound out the institutions in advance regarding their buying inclinations, it is always difficult to get a definite picture in a market full of cross trends. The bankers have continued in many cases to take too optimistic a view of sales possibilities. It has been hard for them to realize that it is now a buyer's market rather than a seller's. Moreover, selling commissions, or "spread," were reduced to such a minimum that only large order takers could make profitable commissions. One house which had been allowing only one-eighth of a point selling commission (one-half the regular commission on listed bonds) recently raised the rate to one-quarter, which may have been a factor in the successful placing of the bond issue, the recent $100,000,000 Pacific Telephone & Telegraph bonds.

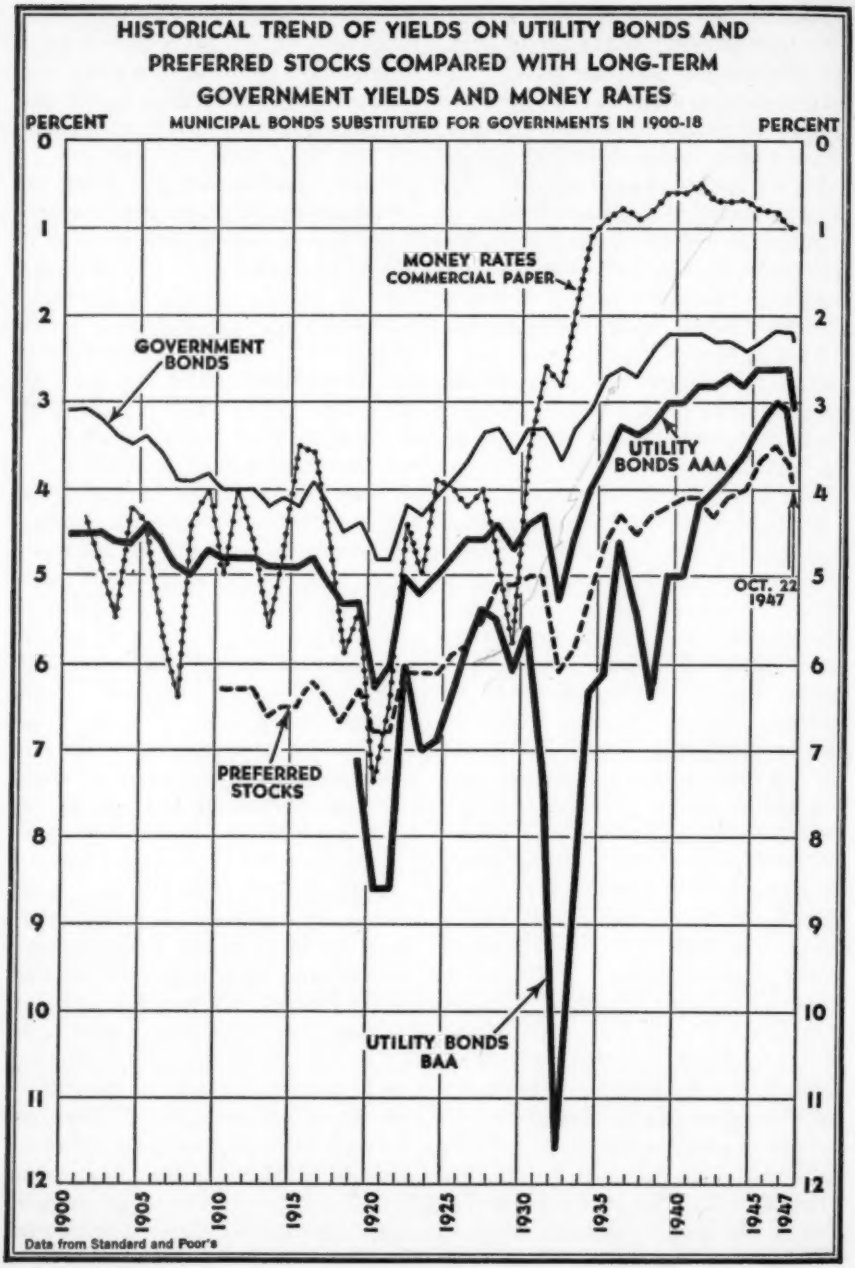
PRICE declines in recent utility offerings (as compiled by Dow Jones) are indicated by the table on page 823.

Preferred stocks make a particularly poor showing, and as a result both the refunding of old issues and the sale of new stock as a part of "new money" finance programs have slowed down. Some utilities which earlier announced plans for preferred stock financing on a competitive bidding basis have later decided on negotiated deals, or have deferred offerings indefinitely. "Going yields" for new offerings of utility preferred stock have probably advanced at least half of one per cent—though it is difficult to make a definite estimate since preferred stocks cannot be conveniently grouped by ratings as are bond offerings.

But where utility companies turn to negotiated deals, they sometimes run into trouble also. Cleveland Electric Illuminating in September arranged with Dillon, Read & Company to handle a stand-by refunding job on its $25,498,900 $4.50 preferred stock. The new stock would be offered to the present preferred stockholders, with the syndicate taking up any unsubscribed stock for public offering. Immediately Otis & Co. of Cleveland protested, claiming that as a leading local broker it should have been granted an opportunity to handle the deal. President Lindseth, in commenting on the letter, stated that every Cleveland security underwriting firm had been asked to participate in the financing, and that Otis & Co. had declined an important participation. However, Otis & Co. appealed to the public utilities commission of Ohio to enforce competitive bidding. The position of Otis gained some support from the presence at the hearing of a representative of the Department of Justice in Washington. But while the local commission confirmed the company's permission to do the business on a negotiated basis, the company announced on October 20th that it had decided to postpone its refunding plans.

THE Attorney General's office has chosen this singularly inappropriate time to indicate its intention to bring to a head plans for prosecuting some of the leading investment bankers under the antitrust statutes, for allegedly monopolizing the control of security offerings. This was the contention some years ago, which led to the adoption by the SEC of U-50, requiring the competitive bidding for security offerings of all subsidiaries of registered holding companies. The Federal Power Commission, the Interstate Commerce Commission, and many state commissions followed the lead of the SEC, so that (excluding private placements) almost all utility offerings up to a few months ago went through the test of competitive bidding. Some recent departures from that rule have obviously reflected the practical necessities of the case—that is, competitive bidding might have proved a fiasco.

It is difficult to understand how the Federal government could have built up any case against the large syndicate heads during a period when competitive bidding was a general practice. Under this rule any firm with sufficient resources, or sufficient reputation in the banking field to attract a following, could bid against any of the established leaders. But a firm without real banking resources or nation-wide connections could hardly form a group to bid for a large offering, though it might successfully handle a small local issue or a small negotiated deal.


HISTORICAL TREND OF YIELDS ON UTILITY BONDS AND PREFERRED STOCKS COMPARED WITH LONG-TERM GOVERNMENT YIELDS AND MONEY RATES
MUNICIPAL BONDS SUBSTITUTED FOR GOVERNMENTS IN 1900-18
PERCENT
PERCENT
0
1
2
3
4
5
6
7
8
9
10
11
12
MONEY RATES COMMERCIAL PAPER
GOVERNMENT BONDS
UTILITY BONDS AAA
OCT. 22 1947
PREFERRED STOCKS
UTILITY BONDS BAA
1900
1905
1910
1915
1920
1925
1930
1935
1940
1945
1947
Data from Standard and Poor's

BULL MARKET IN BONDS ENDED

THERE has for some years been a feeling in Washington — reflecting the general antipathy between New Dealers and Wall Street — that the underwriting function was too firmly entrenched in New York city, and that it would be better to decentralize investment banking. At the time competitive bidding was ordered by the SEC (and several years later by the ICC) the argument was widely advanced that the new procedure would give local bankers a greater opportunity to head up the financing in their respective areas. The basic fact was overlooked that, while these local houses are almost always included in the various bidding groups, their principal function is in the local distribution of securities, rather than in the true underwriting function. That function can best be exercised in New York city, which is the banking center of the nation. Underwriting means substantial risk taking, and as a rule local houses do not have the resources or strong banking connections required to shoulder a substantial portion of the risk in an important underwriting.

Moreover, the division of local bankers into several opposing camps for bidding purposes may tend to weaken the selling machinery, while a single house having a negotiated deal can obtain the support of most of these local firms either in the underwriting syndicate or the selling group. With competitive bidding the procedure is necessarily more involved. While local houses which have joined competing syndicates may eventually find a place in the selling group set up by the successful bidder, nevertheless the situation is much more confused than where one house has been able to guide

BONDS	*Offering Price*		*Recent Price* Bid	*Asked*
Ark. Power & Lt. 2¾s '77	101.80	97¼	98	
Detroit Edison 2¾s '82	101¼	100¼	100¼	
Duquesne Lt. 2¾s, '77	101.229	101¼	101¼	
Florida Power & Lt. 3s, '77	102.60	99¼	100¼	
Florida Power & Lt. 3¼s, '72	101	99	101	
Iowa Public Service 2¾s, '76	101¼	96	98	
Kentucky Utilities 3s, '77	101.985	99	100	
New Eng. Telephone 3s, '82	101.625	101¼	102¼	
Pacific Pw. & Lt. 3¼s, '77	101.01	98⅛	98⅜	
Pacif. Gas & Elec. 2¾s, '80	100	98⅛	94⅜	
Pacific Tel. & Tel. 3⅛s, '87	101.25	102⅜	103⅛	
Pennsylvania El. 2¾s, '76	102.47	96	98⅛	
Phila. Elec. Power 2⅝s, '75	102.56	97	99	
Public Service Col. 2¾s, '77	103¼	101¼	102¼	
Scranton Spr. Br. 2¾s, '76	102¼	97	98⅛	
Toledo Edison 2¾s, '77	103.164	98	99⅛	
Utah Pow. & Lt. 2¾s, '76	101¼	96	98	
PREFERRED STOCKS				
Birmingham Elec. $4.20	100	93	94¼	
Kentucky Util. 4⅛%	100	102	103	
Ohio Public Service 3.90%	102½	93	95	
Penn Electric 3.70	101	98	100	
Public Service Ind. 3.50%	100	83	86	
Tenn. Gas 4¼%	103	94½	95	

the whole program harmoniously and enlist the full support of the local houses.

As a possible result of the Federal threat, and possibly due also to recent difficulties with the institutional buyers in New York, there may be a renewed effort to handle small to medium-sized utility offerings with local bankers. Idaho Power, for example, is now planning to use a local banker in connection with its finance program, instead of entrusting the whole job to Blyth & Co.

The antitrust inquiry, if it is brought out into the open by court proceedings late this year or early next year, may very well have disturbing effects on the present construction program of the public utilities, which is needed not only to permit further industrial expansion, but also to restore the necessary margin of capacity and permit greater operating efficiency. If the utilities cannot properly finance their program due to the hesitation of important banking houses to organize underwriting syndicates, the utilities will be forced either to defer their building programs or to resort to short-term bank loans to a dangerous extent. Such loans are already being too freely used as a temporary device. If the Federal government wants to expedite the construction program, this is hardly the time to advertise any broad investigation into underwriting practices, or to threaten the prosecution of leading houses.

The utility companies should not be too discouraged by the recent turn of events. The insurance companies have obtained their objective—an increased spread between yields on governments and high-grade corporate offerings. This spread, which is now about ¼-⅜ per cent, seems ample under present conditions, although it might approach one per cent two or three years from now if money rates should continue to rise. The institutions, including savings banks, can always sell governments if necessary to raise funds for the purchase of corporate issues, when these are attractively priced. The government bonds thus thrown on the market can (for the present at least) be easily absorbed by the Federal Reserve banks and other agencies.

There is thus no reason to become panicky over future placement of utility bond offerings, provided these are properly spaced apart and realistically priced. Preferred stock financing is a different story, however. The institutions want certain changes made in their state regulations, and until this program makes some headway they may remain reluctant buyers. The spread between bond and preferred stock yields might tend to widen further. It may prove necessary to omit preferred stock issues except where handled without underwriting, or with the aid of local bankers who are in close touch with stockholders.

Disagreeable as the policy may be, it may prove necessary for the utilities to increase the proportion of common stock financing in their over-all programs. Despite the present unsatisfactory level of common stocks and the depressing effects of rights on prices, offering to present stockholders is the easiest method of public financing. The issuance of convertible securities, already coming into vogue, should also become increasingly popular.

The Tax Pot Is Boiling

Utilities have an important stake in pending reform proposals. Various congressional committees studying specific problems and types of investigations they are undertaking.

By LARSTON D. FARRAR*

BACK in prewar days, Federal taxes were a subject of concern to only a comparatively small percentage of the American people. Today, more and more Americans are interested in taxes, from both a personal and a business standpoint.

As a natural result of this ever-growing public interest, there has been a comparable increase in interest in taxes in Washington. Right now, little known even to many Americans interested in taxes, the subject of potential tax reform is occupying the attention of more Congressmen, more officials of the executive branch of the Federal government, and more civilian agencies and committees in Washington and New York than ever before in American history.

It would be difficult to find an American who did not have an indirect concern in tax reform, whether he knew it or not. But public utilities, with their huge investments running into the billions, and operating, as they do, in the public interest, have a highly important stake in this whole program.

What shapes the potential tax reforms will take will be more important to public utilities than to most other business interests, for such reforms, or lack of reforms, actually may result in operation at a profit or loss in the case of particular utilities. What is done or left undone could mean widespread, although perhaps misdirected, public resentment against privately owned utilities, and, in almost every case, it could hinder the most efficient utility operation—from the standpoint of both investors and consumers.

It is widely recognized, for example, that if Congress does not enact more equitable tax laws in regard to the co-op form of business enterprise, privately owned, tax-paying utilities will continue to suffer unfair competition. This competition, subsidized in effect as it is, could actually drive other

*Professional writer of business articles, Washington, D. C.

utilities out of business, as it has in the past. On the other hand, if Congress were to pass a bill that provides heavier excise taxes on utility services —already so taxed—or were to place new excises on utility services not taxed, it could create and promote a feeling of resentment by consumers toward the companies. The taxpayers *should* attribute new, or increased, taxes to the government which levies the toll, but experience indicates that people place the blame on the utility company which collects the tax.

UTILITIES have a stake in what Congress does or fails to do in regard to "double taxation" of corporate dividends. Many tax authorities feel keenly that continued double taxation of such dividends is unfair both to investors and to managers of the companies alike. And, of course, utilities have a great stake in any rulings or provisions of law that would enable industry generally to increase depreciation reserves, or to up the allowable percentage of depreciation deductions on equipment.

The mere fact that seven committees of Congress, many different councils appointed by Congress, and study groups appointed by the Treasury Department and the Department of Commerce, are exploring possible methods of tax reform is possibly of greater importance to utilities than to other segments of our economy. What these committees, councils, and study groups have recommended and will recommend will help to shape and determine the final provisions of the proposed new over-all tax bill that will be presented to Congress in early 1949. It is generally assumed in Washington—and, in fact, admitted by Congressmen who are in a position to know—that the tax bill to be introduced in the regular session of Congress in 1948 will not embody any basic reforms in the tax laws generally. The 1948 bill, providing as it will for cuts in the personal income tax rates and possibly some cuts in particular excise taxes, will be based on the existing income tax laws. The legislation that probably will be most important, in the long run, to business and to utilities, will entail basic changes in the methods of taxation and will be designed to bring about fundamental tax reforms.

THAT, at least, seems to be the hope of Republican and Democratic tax thinkers, for there is widespread agreement that such basic changes and fundamental reforms are greatly needed if our so-called free, private enterprise economy is going to weather economic storms that can start blowing at any time.

The present Federal, state, county, and local government tax laws are a hodgepodge of which our founding fathers never dreamed. Tax experts for large corporations know that a regular check list has to be kept and followed closely to keep up with the various tax collectors who reach for their respective cuts. It is no exaggeration to say that there is hardly a day when, in the United States, a tax is not due somewhere on the municipal, county, state, or Federal plane. Whenever such a day is discovered, it should be observed as National Wear-a-Smile Day.

Two committees — one representing the Congress and one the Executive branch—recently made headlines when

they came out with tax-reform recommendations. These groups were the division of tax research of the U. S. Treasury Department, headed by Louis Shere, and the Special Tax Study Committee of the House Ways and Means Committee, headed by Roswell Magill, noted New York tax attorney.

THE report of the Treasury Department dealt directly with tax exemption of farm co-ops. It outlined facts that seemed to indicate the need for reforms in co-op taxation, and it frankly admitted that most tax-exemption practices had developed through interpretations by the Commissioner of Internal Revenue of hazy tax statutes. Both opponents and proponents of lifting co-op tax exemptions were furnished ammunition by the Treasury report; and both sides already are using data furnished in the report. The Treasury report outlined four suggested changes in present tax laws, and criticized each one of them:

First, outright repeal of co-op tax exemptions. This would be ineffective, the Treasury maintained, since repeal would not affect payment of patronage dividends.

Second, inclusion of patronage dividends as taxable income. This would be unsatisfactory, the Treasury said, as it would drive co-op prices down to make dividends smaller.

Third, taxation of cash patronage dividends. The Treasury said this would not be effective because co-ops could levy various assessments against dividend funds and build up capital anyway.

Fourth, taxation of gross receipts. This would be unworkable, the Treasury pointed out, because rate setting would be difficult if not impossible.

THE Special Tax Study Committee's report, filed with the House Ways and Means Committee early in November, was in marked contrast to the Treasury report, admittedly only one of a series of studies being made for the use of Congress and the public. A 9-man majority of the Special Tax Study Committee recommended lower income taxes, and, if possible, lower corporate taxes for 1948. The committee urged retention of the present excise tax structure, recommending that changes be permitted only in case of "inequities," which were not specified by the majority.

A one-man minority report, made by Matthew Woll, AFL executive, urged repeal of excises on transportation, electric energy, electric light bulbs, and other commodities. He recommended a straight 50 per cent cut in taxes on telephone and telegraph service, and plugged for elimination of "loopholes" in exemption of "income derived from security issues of state

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and local governments." This, of course, would affect the financing of most publicly owned utilities. The majority of the committee took no stand on co-op tax exemption, no doubt because the members knew the House Ways and Means Committee would shortly hold hearings on this very subject.

Just about all citizens will agree with this statement of the special study committee:

> Since the tax load now falls so heavily upon all classes of citizens, it is important that like incomes bear like burdens. No kind of income, nor any class of taxpayer, should be discriminated against, or, by the same token, should any class of taxpayer enjoy special advantages. If the tax laws can be improved to function more efficiently and with greater speed, then all who come within their scope will be encouraged to work and to produce. Legitimate business can and should be freed of many of its present inequities.

VARIOUS congressional committees are studying different phases of taxation today. Here they are:

The Ways and Means Committee of the House of Representatives, of which Representative Harold Knutson (R.-Minn.) is chairman.

The Joint Committee on Internal Revenue Taxation, of which Mr. Knutson also is chairman.

The Senate Committee on Small Business, of which Senator Kenneth Wherry (R.-Neb.) is chairman.

The Senate Committee on Finance, of which Senator Eugene Millikin (R.-Colo.) is chairman.

The Committee on Appropriations of the House of Representatives of which Representative John Taber (R.-N.Y.) is chairman.

The Committee on Small Business of the House of Representatives, of which Representative Walter C. Ploeser (R.-Mo.) is chairman.

The Senate Committee on Expenditures in the Executive Departments, of which Senator George D. Aiken (R.-Vt.) is chairman.

The House Ways and Means Committee, traditional tax-writing body of the House, which must originate all internal revenue measures under the provisions of the Constitution, has already started on immediate and long-range taxation. First order of business was an investigation of the tax-exempt status of farm coöperatives. No startling recommendations on this subject are expected to be written into law in 1948, but whatever is brought out that will bolster the cases of proponents or opponents of co-op tax exemption will be helpful in formulating the long-range legislation.

THE committee already this year has held extensive hearings and these have been printed. Available now in printed form, the hearings deal with:

1. Excise taxes of all kinds, including utility excise taxes.
2. Community property and family partnerships, corporation tax problems, and general revisions.
3. General suggested revisions of tax rates on small businesses, corporations, and others.

The Joint Committee on Internal Revenue Taxation which is composed of members of both the Houses of Representatives and the Senate and has one of the most competent groups of tax experts in America on its technical staff, constantly studies various forms and methods of taxation and their effects on collections and the economy of the nation. This committee regularly

Lower Excise Taxes

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recommends addition of new sources of taxation to Congress or the cessation of other sources. The committee's technical staff is headed by brilliant Colin F. Stam, who is directing a particular investigation into tax law administration at this time. This only is of general interest to businessmen, although they have probably a greater stake in the efficiency of the Bureau of Internal Revenue than have other taxpayers.

THE Senate Committee on Small Business is carrying on a mail-order questionnaire investigation to learn the particular tax gripes of small businessmen throughout the nation. If the problems brought out are deemed to be of sufficient national importance, Chairman Wherry is expected to call hearings directly after Congress convenes in regular session. Recommendations will be made to the House Committee on Ways and Means. A number of small businessmen are expected to protest the unfair tax exemption now being enjoyed by many of their co-op competitors, particularly in smaller cities and towns. If they do, this investigation could be of undoubted aid to public utilities which would like to see burgeoning co-ops in the utility field pay taxes on the same basis as privately owned utilities.

The Senate Committee on Finance is fathering an investigation into all phases of the social security tax and old age and survivors' insurance, with a view to extending coverage and increasing premiums. An advisory council, headed by Edward Stettinius, former Secretary of State, and composed of men versed in taxes and insurance from all parts of the nation, has been named by the Senate committee actually to make the investigation.

RECOMMENDATIONS made by this council and adopted by the full committee could prove significant for all business. Although the Senate has no right to originate tax legislation, it is certain that that body can pass social

security legislation and increase both the amount of such taxes and the number of persons to be covered. Any new social security law will undoubtedly bring many "single operators" in business under the act and will likely include millions of farmers, professional men and women, and even church workers. It seems fairly certain that whatever is recommended by this council and the full Senate committee will win ready acceptance in the House of Representatives, too.

The Committee on Appropriations of the House of Representatives is making an investigation into the administration of the tax law generally, with particular emphasis on the utilization of personnel by the Bureau of Internal Revenue.

The Committee on Small Business of the House of Representatives is making an investigation which is of great interest to many utilities. This committee will go into all phases of co-op ownership and operation, with particular emphasis on tax exemption enjoyed by so many businesses which use the coöperative form. It is believed, in view of the statements of members of this committee, that a strong report sooner or later will be made, urging Congress to define what is a profit and what is not a profit and to tax all profit-making enterprises alike, regardless of the form of ownership. If the strong minority on this committee does not make a different kind of report, however, most Washington observers will be surprised.

THE Senate Committee on Expenditures in the Executive Departments has been carrying on what has been termed an important but not very well-publicized investigation of intergovernmental fiscal relations. Specifically, this committee has endeavored to find out what fields of taxation are easiest to administer by the various governing bodies — city, county, state, and Federal. At a notable conference held last fall in Chicago, substantial agreement was reached by Congressmen, state governors, and mayors of large cities that certain fields of taxation should be left to state governments, certain other fields to city governments, and certain others exclusively to the Federal government.

For example, it was agreed generally that Uncle Sam might well concentrate on the personal and corporate income tax; on customs duties and on particular manufacturing taxation, particularly with regard to commodities used daily by most Americans. At the same time, it was agreed that cities should not enter the field of income taxation and that states should withdraw from such fields as rapidly as possible. Local and state governments, it was agreed, should stick to excise taxes (sales taxes) and property taxes for their principle sources of income, leaving income taxes to the Federal government, which correspondingly should reduce its activities, or cease them altogether in time, in the field of consumers' excise taxes, etc.

SPECIFICALLY, this conference proposed (and the full Senate Committee on Expenditures in the Executive Departments likely will recommend to Congress) that

1. The Federal government reduce Federal excise taxes "as soon as possible."

2. The Federal government amend its inheritance and estate taxes "to provide more equitable division of this revenue between the Federal government and the states."

3. The Federal government relinquish to the state the Federal tax on employers "levied to cover the administrative expense of state employment security programs," so that states can assume the unemployment compensation and employment service program.

4. Congress take "the earliest possible action to correct by Federal law the inequities existing between the community property and the noncommunity property states."

5. The states should avoid encroachment upon tax deals which are peculiarly adaptable to Federal uses.

INTENSIVE study of tax methods is also going on in the executive branch of the government. The Treasury's division of tax research, already mentioned, is not far behind the House Ways and Means Committee and the Joint Congressional Committee on Internal Revenue Taxation at any particular time. This division of the Treasury acts as a sounding board for administration tax policy, releasing intermittent studies so that public reaction can be obtained by the President and the Cabinet before specific recommendations are made to Congress. Likewise, the 20-man advisory committee of the Department of Commerce, composed entirely of businessmen, covers recommendations relating to taxation generally when it issues a public report. This committee recommended recently, after a thorough study, that double taxation on corporation dividends should be removed immediately. It also recommended "equal tax treatment for coöperatives which compete with private tax-producing enterprises," and "a $25,000 tax exemption on undistributed earnings of business and removal of uncertainties and fears which hamper management judgment on whether to retain larger earnings or not."

All of this indicates that the tax pot is boiling and that important changes will be made eventually. Few basic changes, it should be emphasized, are likely to be made in 1948, because of the immediate political situation; but opinions as to what will be undertaken in 1949 in this field will be formed in the coming months. Present trends are significant.

SOME utilities will probably work to obtain surcease from certain excise taxes which have crept into tax laws in recent years. Not many plain citizens would blame utilities, especially the telephone, telegraph, rail and bus passenger carriers, for trying to have such excise taxes eliminated. The electric utilities for the most part have absorbed the excise taxes levied on their

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service. That is the law—which also specifically exempts municipally owned and other publicly operated utilities. If the tax could be removed and the rates raised gradually to make up the difference, such twin benefits might help ease the electrical utilities industry through the worst part of the inflationary cycle.

Railroad and telephone companies in many instances are anxious to lower the excise taxes charged to consumers for their services. Such taxes, while no longer considered strictly "luxury" taxes, have just enough of the odor of such taxes to cause railroad and telephone management generally to resent them. In addition, they raise the cost of service to the consumer, and, in a period of recession, could cause marked consumer resistance and lowered gross earnings. Other utilities—water companies, intracity transportation systems, and gas companies—have not yet had to face the problem of excise taxes.

THE famous statement by Chief Justice John Marshall — "The power to tax involves the power to destroy"—was never more true than it is today in our highly integrated American economy. Privately owned utilities cannot—and, of course, will not—overlook one single angle of tax study and opinion molding in the coming years. To do so would not only prove costly—it could prove fatal—to them.

Stockholders' Meeting

"THEY come from everywhere . . . from every income group, from every community. They are women as well as men, employees as well as executives, farmers as well as businessmen. They are typical stockholders, the owners of business.

"This distribution of business ownership through the whole mass of the people is an AMERICAN *development. A healthy and* DEMOCRATIC *development.*

"We believe that much of the great strength of American industry derives from the depth and breadth of its ownership. The dollars with which it has carried our standard of living up and up with an ever-swelling flood of goods, produced at lower cost but at higher wages than ever before in history—these dollars have come from MILLIONS *of our citizens."*

—EXCERPT *from advertisement of New York Stock Exchange.*

Nuclear Energy for Power

Possibilities of large-scale electric generation by the use of atomic force, as viewed by an electric utility company engineer.

By WARD F. DAVIDSON*

THE spectacular—if grim—demonstrations of nuclear energy at Hiroshima, Nagasaki, and Bikini have tended to focus much popular interest on the possibilities of using this newly available source of energy for peaceful purposes. Predictions have ranged from prophecies of doom to wildest fantasy. Coal mines were to be closed and oil wells abandoned, or the deserts were to bloom as gardens and the arctic wastes were to become lands for summer holidays. This article is an effort to view the possibilities of large-scale electric power production using atomic energy from the position of an electric utility company engineer.

Lack of information and restrictions on the use of some specific data are two handicaps. Another is that the subject is still so new, and there are so many wholly unexplored possibilities, that there is much more of speculation and personal opinion than in the usual engineering analysis.

The present author does not pretend to freedom from these limitations, and, in justification, submits only that there may be some value in the viewpoint of a power utility engineer who has had occasion to spend considerable time in a study of the subject and who has had the benefit of extensive discussions — always within the limits imposed by secrecy regulations—with scientists intimately familiar with particular phases of the subject.

For our present purposes, we shall not consider the general engineering and technical problems involved in the design of a power plant using atomic energy. Suffice it to say that, although

*Research engineer, Consolidated Edison Company of New York. For personal sketch see "Pages with the Editors."

these problems are formidable, there seems to be no reason for concluding that they cannot be solved. How long it will take depends on how intense the effort may be. How much it will cost is a matter for opinion and speculation.

THERE are so many uncertainties that it is clearly impossible at this time to make any sound predictions as to construction or operating costs for nuclear power plants. Of the many publicly announced predictions made by various scientists, engineers, and nontechnical people, a large part obviously have so little basis in engineering fact as to deserve even so much as a cursory analysis. One has been selected for comment here because it was made by a group that probably has available more of the essential data than any other group in the world. It was submitted to United Nations Atomic Energy Commission as "Scientific Information Transmitted to UNAEC by the United States Representative."

The report estimates construction and operating costs for an electric power plant using nuclear energy. It also gives, for comparison, estimates for a coal-burning power plant of like capacity. The essential data are summarized in the accompanying table outlined on page 835.

This estimate was based on certain assumptions and conditions which are worthy of comment. In the first place, the cost of money is set at 3 per cent. While the cost of money depends on whether the money is provided by the government, without a special allocation to cover higher than average risks, or by private financing, the assumption of a 3 per cent rate implies government ownership. This may be implicit in the broad proposals for government ownership and operation of atomic energy facilities, but seems not to have been taken into account in setting up the coal-burning power plant used for comparison.

AGAIN, the assumption of a plant factor (annual load factor) at 1.00 is of doubtful validity. Even were it technically possible to design a plan for such plant factor without reserve of any kind, as is done in the report, no known load will be as steady as this assumption implies. Few electrochemical industries operate with a load factor as high as .90, and electric power systems generally have over-all annual load factors nearer .40 or .50. While it would be possible, on such a system, to operate one of several plants at a very high load factor—and it may be desirable to do so—it may be misleading to take the cost of energy at this plant as representative of the system as a whole.

Also, estimated costs of operation are not broken down in accordance with usual practice, and a single figure ($1,669,000) covers operating labor, maintenance and repairs, depreciation, and miscellaneous charges. A comparison with data published by the Federal Power Commission indicates that the amount is quite high for stations of new design operating at a high plant factor. Nor does the report assume the optimum design for coal-burning plants.

Using an estimated thermal efficiency of .25, rather than demonstrated efficiency of up to .35 in some existing power plants (notably in two units of the Wisconsin Electric Power Company), the report emphasizes the

effects of higher coal costs and, correspondingly, makes the case for nuclear power seem more attractive.

THE estimates of construction cost are based on the assumptions of construction in the eastern part of USA at prices prevailing during early 1946, and for the steam station they may be taken as good engineering values. Experience does not provide a basis for checking the estimates for nuclear power.

For such a coal-burning station, something near 50 per cent of the costs would probably be for steam-generating and coal-handling equipment and an equal amount for the turbine generators with their auxiliaries and the electrical switchgear, in each case with the appropriate part of building and foundation costs. It may be expected that the corresponding costs of the latter item in the nuclear power plant would be essentially the same, and the differences in total construction cost lie, therefore, in the other items. This would mean that the cost of the atomic reactor with the heat transfer equipment, including the final steam generator and general auxiliaries, and such chemical facilities as were included, is estimated at about $265 per kilowatt as compared with about $65 per kilowatt for the equipment in the coal-burning station. The factor of 4 would seem to be not unreasonable. Note may be taken, however, of several unofficial reports that, since the preparation of the estimates, studies and experimental work have pointed the way to large reductions in plant costs.

ANY attempt to evaluate the reasonableness of the estimated operating costs must, for want of necessary basic information, be on uncertain ground. That the group which prepared the estimates was realistic is indicative by the following comments in the report:

> (2) In the case of nuclear power, the operating cost is greatly affected by the large investment, which is reflected in the interest, depreciation, and maintenance charges. The labor and supervision charges for the nuclear plant are expected to be greater than for the coal plant, until such time as the production of electrical power from nuclear energy has been further developed. It seems reasonable to expect that the future development of

TABLE

Item	*Unit*	*Nuclear Power*	*Coal*
Installed plant capacity*	kw.	75,000	75,000
Construction cost, total*	$	25,000,000	10,000,000
Cost per unit capacity	$/kw.	333	133
Plant factor (annual load factor)*		1.00	1.00
Annual output	kw.hr.	657,000,000	657,000,000
Price of coal*	$/ton	.....	7.00
Heat value of coal*	BTU/lb	.....	13,500
Plant thermal efficiency		.....	0.25
Annual charges			
Interest*	$	750,000	300,000
Fuel	$	(	2,301,000
Other operation	$	(4,506,000	1,669,000
Total	$	5,256,000	4,270,000
Cost per unit output*	¢/kw.hr.	0.80	0.65

*Data given in report; other values are derived.

nuclear power will result in the standardization of design and construction and a material reduction in the investment and operating cost.

(6) Research has already shown possibilities for use of radioactive isotopes in analytical work and medical treatment. These isotopes would be valuable by-products from production of power, although they would probably have little effect on the economics of power generation.

Further, the report makes the important qualifying assumption that "all plutonium formed would be recovered for consumption in the pile. No attempt would be made to produce plutonium for use elsewhere." In relation to the nuclear power plant investment and operating costs, this means that they must include most or all of the costs of chemically treating or reprocessing the partially expended uranium and that these are not chargeable against "non-power" operations. It may be assumed that the cost of the initial preparation of the uranium would be included in the "cost of fuel" just as the costs of screening and washing of coal at the mine are included in the cost of coal as taken in the report. Such costs will, naturally, be influenced by the over-all picture for the uses of uranium.

It is disappointing that the report does not show separately the estimated charges for depreciation, for maintenance, and for labor and supervision. However, this need not prevent some comments on a few of the factors that may be involved.

As to depreciation, it is clear that the investment involved is much greater for the nuclear plant than for the coal plant. Of the total of $25,000,000 approximately $5,000,000 may be considered as for identical facilities with either nuclear or coal fuels and, therefore, subject to the same rate of depreciation. For the remaining $20,000,000, however, the rates should certainly be much greater than for the corresponding $5,000,000 in the coal plant. This follows because the nuclear plant under consideration would be an early design in a wholly new field where rapid progress is to be expected. As a result, refinements of detail, and even major changes, would so reduce maintenance and operating costs or improve efficiency as to result in the early obsolescence of the plant. A depreciation rate at least twice that for the coal plant would seem called for. Taken with the difference in the basis, this results in an annual charge 4.5 times greater. In terms of money, it might be in the order of $1,125,000 per year as compared with $250,000.

For maintenance charges, there is reason to assume that they will depend on the amount and kind of plant to be maintained. The estimated costs for the nuclear plant is 2.5 times greater than for the coal plant, indicating a factor of at least this magnitude. Also, maintenance rates will be higher. For one thing, there will not be the background of experience necessary to refine design so as to remove the principal sources of maintenance difficulty; for another, many parts used in the nuclear plant will become so highly radioactive that they cannot be safely worked on to make repairs and they must be discarded and replaced in their entirety. A rate 1.5 times greater seems therefore reasonable. This leads to an over-all factor of 3.75 and to annual charges in the order of $750,000 for the nuclear plant and $200,000 for the coal plant.

In the matter of labor and supervision a number of factors operate. The

Nuclear Plants within Decade

"WHILE the fundamental principles on which the design of nuclear power plants are understood in broad outline and have been demonstrated, an extensive and costly program of analysis and experimental investigation must be carried out before the first practically useful power plant can be constructed. However, there seem to be good reasons to expect that within a decade it will be possible, technically, to have nuclear power plants of several thousand kilowatts capacity."

nuclear plant will operate with negligible costs for handling the "fuel" as compared with significant costs for handling coal, ash, and cinder, but it will require operating personnel for the chemical plant used for reprocessing the uranium. The nuclear plant will probably be more highly mechanized, if for no other reason than to provide adequate safety to personnel. Against these are the certain need for a larger supervisory staff, including safety and medical personnel, and a larger proportion with special technical or engineering training. A more intangible, but not negligible, factor may be the need for paying higher rates because of the real or imagined greater risk. Annual charges for labor might be in the order of $275,000 for the nuclear plant and $200,000 for the coal plant.

Other comments in the report include the following:

> (4) Nuclear power plants would make feasible a greater decentralization of industry, a desirable factor in the world economy. Only a trivial amount of fuel need be brought in, and the need for a large supply of cooling water might be obviated by the development of gas turbines.

and

> (7) The nuclear power plant might aid in the industrial development of isolated parts of the world where the cost of oil, gas, or coal is prohibitive and where a suitable supply of water is unavailable, because the nuclear power plant, if combined with the modern gas turbine, would make unnecessary a supply of any such fuels or cooling water.

To the present author it seems unfortunate that so much emphasis has been placed in a report essentially for a nontechnical audience, on the operation of nuclear plants using gas tur-

bines without cooling water. The statements have been quoted frequently by nontechnical writers, at least in America, as proof that nuclear plants were thereby freed from important restrictions that were assumed to apply to fuel plants. Clearly, such arguments are made without knowledge of the fact that many large and important coal plants operate with cooling towers and are distant from large streams or other natural sources of cooling water. In matter of fact whether cooling water from streams or lakes (or cooling towers or ponds) is used or not depends on whether or not it can be justified on a cost basis.

In any discussion of freedom as to location of nuclear power plants with respect to natural water supplies, it would seem necessary to inquire—although the answer cannot now be given—whether the restrictions may not be greater than for a coal plant due to the need for adequate supplies of water for the chemical reprocessing of the uranium materials.

As a final quotation from the report:

> (8) The nuclear power plant, in connection with the modern gas turbine, might be desirable as operating or stand-by plants to existing utilities.

THE suggestion that nuclear plants be used as "stand-by" seems quite unsound on the basis of comments from the report as previously quoted. The large investment and the need for a large operating staff of highly trained personnel would result in high fixed charges irrespective of whether the plant was in operation or not. By the same argument, nuclear power plants, if connected to existing utility systems, seem destined to be used for base-load operation, thus approaching the 100 per cent operation assumed as a basis for the estimates that have been quoted.

While the fundamental principles on which the design of nuclear power plants are understood in broad outline and have been demonstrated, an extensive and costly program of analysis and experimental investigation must be carried out before the first practically useful power plant can be constructed. However, there seem to be good reasons to expect that within a decade it will be possible, technically, to have nuclear power plants of several thousand kilowatts capacity.

Such plants may be able to deliver power at costs comparable with those from coal-burning power plants, and may first find use in regions without water power where coal and oil can be obtained only after expensive shipment.

No consideration has been given to the effects of national or international laws or agreements for the control of atomic energy in fissionable materials. The effects are certain to be far-reaching, and they may have a profound influence on the future technological development in the field, if for no other reason than their influence on the rate at which the early engineering development programs can be prosecuted.

¶ "IF *Federal expenditures are to be reduced, Congress must reassert its power over the purse strings. If various Federal agencies are allowed to increase their own appropriations at will the budget is not really fixed by Congress.*"

—EDITORIAL STATEMENT, *The (New York) Sun.*

Washington and the Utilities

Olds—Political Platform Builder

ACCORDING to the usual advance notices, the year 1948 is going to treat the nation to the hottest election since the Cleveland-Blaine go in 1884, and maybe the closest since the Tilden-Hayes contest, or the Crime of '76—if one prefers the righteously indignant Democratic nickname for it. Of course, presidential elections have a way of failing to live up to advance promises. So-called "cinch" campaigns can turn out to be quite exciting in the stretch, as in 1928; whereas those with sensational build ups can develop into duds, as in 1924.

But assuming that we are on the eve of a pretty intense home-coming game for the electoral college, it follows that the teams on both sides are naturally keyed up and waiting for the official kickoff. This is almost certain to come from a prominent party early next year. Newspaper editors all over the country already have conjured up in their mind's eye the hackneyed headline about so-and-so "firing the opening shot of the 1948 campaign"—with all but the name supplied.

Maybe it will come with the Jackson Day dinner of the Democrats next month, or the Lincoln Day festivities of the Republicans the following month. Maybe it will come sooner than that. But the situation in Washington right now is so intense that any jumping the gun or similar offside play by an unexpected player would seem to be almost anticlimactic.

IT was for this reason that a number of Democratic and Republican Congressmen alike noted with some puzzlement the news that a member of the Federal Power Commission, a quasi judicial administrative official, had undertaken as early as mid-November to advise the Democratic party as to what it should make a major campaign issue in 1948. The political speech was by Leland Olds, addressing a rally of the Affiliated Young Democrats at Albany, New York. After eulogizing the public power policies of the late President Roosevelt, Commissioner Olds said:

> I believe the all-front drive of utility forces to reverse the Roosevelt power policy has provided us with a splendid issue, ready to hand for the campaign of 1948. I want you to join me in making it an issue which the Democratic party will again ride to victory.

The Olds speech recalled a somewhat similar political address which he made at Boise, Idaho, during the summer of 1945, while he was chairman of the FPC. This talk, which dealt with the Columbia valley development, resulted in some pointed questions being asked by members of the Appropriations subcommittee in charge of the Independent Offices Bill. Thus, although the commissioner's speech at Albany last month was to be strictly understood as a statement from an individual and not an FPC commissioner, there seemed to be very little enthusiastic reaction around the FPC.

In GOP congressional circles, on the other hand, there was considerable interest. While nobody suggested that the FPC ex-chairman had sounded the tocsin (or maybe toxin) or even fired the opening squirt of a 1948 campaign, there was a good possibility that he might be called upon to give an encore at some committee hearings in the near future.

As to the broader question of whether the so-called "power issue" will play an important part in the 1948 campaign, there is some evidence on both sides. Advisers to President Truman, who are grooming him for a political unveiling with a "new look"—probably in January—are almost certain to pitch the emphasis on "liberalism." Recurrent Washington rumor is to the effect that President Truman will have a lot to say about public power projects such as TVA, Missouri Valley, and the Pacific Northwest. He will strive hard, so the rumor goes, to wear effectively the "mantle" of his departed predecessor (now that the "coat tails" are no longer available, according to cynical GOP commentary).

But, on the other side of the picture, most of the Republican presidential candidates have been quietly taking their places on the St. Lawrence seaway bandwagon—if there is to be a bandwagon. Harold Stassen did this last month in Chicago, thereby joining Governor Dewey, Senator Vandenberg, and several other Republican hopefuls. Since it takes two sides to make an issue, this does not augur well for a spirited contest over "public power," as such, especially with so much more exciting material lying around loose, such as tax reduction, revival of price controls, the Red peril, and so forth.

All such speculation to one side, it can be borne in mind that the premature political platform builder has been known to hit the nail right on the finger.

Power Bills Next Year

THE Miller bills (HR 2972 and 2973) to amend the Federal Power Act are due for an early report next year from the House Interstate and Foreign Commerce Committee. These measures would curb the FPC's jurisdiction over water-power sites in smaller streams not navigable in fact, and also FPC jurisdiction over certain border-line situations involving the interstate status of electric power connections. At least that is the general idea Representative Miller (Republican, Connecticut) had when he put them in the hopper.

But what will come out of certain current conferences among the FPC, the state commissions, industry representatives, and congressional committeemen may be something quite different and much milder. One conference took place on November 26th between representatives of the FPC and the National Association of Railroad and Utilities Commissioners. Another conference was scheduled between representatives of the FPC and the electric industry for December 17th. Both of these meetings can be traced to recommendations of the Hall subcommittee of the House Interstate and Foreign Commerce Committee which urged last July that efforts be made to compromise varying viewpoints held on the Miller bills.

Committee hearings on these bills already have been completed and Representative Miller was becoming somewhat impatient over the delay in getting the compromised viewpoints of the conference groups—if any acceptable compromise is to be forthcoming. He pointed out that the industry was ready to confer on forty-eight hours' notice, and that setting the meeting as late as mid-December meant no possibility of action at the special session. He had hoped that once an agreement could be reached among the Federal, state, and industry parties, the committee staff could process the legislation and send it through Congress without further delay. In any event, it looks as if the Miller bills will get serious attention during the regular session, but whether the bills will get to the point of passage depends a great deal on whether the conferences are a success.

SPEAKING of the St. Lawrence seaway, there is another pending measure due for early action in Congress next year. The Senate Foreign Relations Committee already has voted for a favorable report on the new seaway plan as sponsored by Senator Vandenberg (Republican, Michigan). But the actual process-

ing of the report for the Senate got caught in the log jam at the closing hours of the session in July, and it was not the class of legislation suitable for bringing up during the brief special session on foreign aid and inflation controls.

This means that the Vandenberg Bill is due to get away to a fast start soon after New Year's day. Both proponents and opponents have been stock piling ammunition for their respective arguments. Late in November the Department of Commerce issued a report supporting Secretary of Commerce Harriman's appraisal of the economic possibilities of the seaway. This report, written by Transportation Division Acting Chief Paul M. Zeis, concluded that the potential seaway traffic in iron ore, grain, and coal would average 40,000,000 to 53,000,000 tons instead of the 25,000,000 tons earlier estimated. Zeis based his iron ore estimates (30,000,000-37,000,000 tons yearly) on the assumption that imported high-grade iron ore would be cheaper to process than iron from low-grade ores remaining in this country after the higher grades are exhausted. Industry men disagree. In Pittsburgh, steel men pointed to a $750,000,000 steel expansion program, mostly to be built in the Pittsburgh area, as proof of their confidence in domestic processing and recovery methods.

Natural Gas Is Hot Issue

THE recently released staff report of the FPC on "Problems of Long-distance Transportation of Natural Gas" seems to be an interesting discussion of purely factual data concerning pipe-line economics. Those who were expecting that this segment of the natural gas investigation report would settle any controversial policy issues may have been somewhat disappointed.

The answer may be that the commission is unable to resolve controversial policy questions in its present divided state of uncertainty. What the staff report dealt with was pretty well known in principle, although the actual draft represents skillful handling and painstaking research. But the fact that mounting demand for seasonal space heating is creating more of a load factor problem for the pipe-line operators is not exactly news. In the same category is the finding of the staff report that "present limitations of pipe-line capacity and shortages of construction material stand in the way of an immediate transition from uninterruptible to firm industrial service and rates."

But the report skirts the exact nature of the "adjustments" which may be necessary in "marketing policy" during the transition period. And understandably so. There is probably more regulatory dynamite in "adjustments" of "marketing policy" when the commission actually comes to grips with this question than anything else in the whole Natural Gas Act or, for that matter, the whole Federal Power Act. A preview of what might be expected when the commission undertakes to tell pipe-line companies when, where, and whom to serve on a permanent basis—if it does so—was seen in the reaction of the industry to the temporary order issued on November 26th allocating natural gas supply by the Panhandle Eastern Pipe Line Company.

ALTHOUGH this order was designed to cope with an admitted emergency, it does extend through June 1, 1948, thereby embracing the entire 1947-1948 heating season. The commission's order and opinion of 43 pages plus appendixes was handed down in disposing of the complaint of the city of Detroit and the city of Wayne, Michigan, for control of gas deliveries to firm customers in the face of a threatened fuel shortage situation. The commission's order, signed by Acting Chairman Wimberley, Commissioners Claude L. Draper and Leland Olds, undertakes to furnish a schedule of "orderly curtailment" of service by Panhandle Eastern Pipe Line Company, regardless of contractual commitments between that company and its customers.

While this is not the first time the commission has asserted its paramount authority to establish, on a temporary basis at least, a sequence of priority for

customers regardless of their contractual status, it is the first time such an emergency allocation has been undertaken on such a vast scale. The order specifies maximum deliveries for the following large distribution utiilties: East Ohio Gas Company, Kentucky Natural Gas Company, Michigan Consolidated Gas Company, Michigan Gas Storage Company, Ohio Fuel Gas Company.

When further curtailments are necessary the aggregate delivery of natural gas on any one day to direct customers of Panhandle and to public utility customers was specified. Altogether Panhandle Eastern supplies, subject to the jurisdiction of the FPC, 51 gas distributing utilities and the pipe-line companies in the states of Kansas, Missouri, Illinois, Indiana, Ohio, Kentucky, and Michigan. Plans submitted on behalf of Panhandle and its customers were rejected by the FPC as being inadequate for various reasons.

The FPC staff plan, which was adopted, provides for four steps of curtailment: (1) Limitation of maximum volume which Panhandle may deliver to its direct industrial customers and which any purchasing utility may take from Panhandle for supplying its own "interruptible" customers and approximately 50 per cent normal winter requirements. (2) Where curtailment is necessary, such deliveries are reduced to 10 per cent of normal interruptible requirements. (3) Where still further curtailment is necessary, interruptible service stays at 10 per cent of normal, while deliveries for firm industrial loads are reduced to 50 per cent of normal, and so-called "partial requirement customers" are reduced. (4) Aggregate deliveries to distributors are specifically restricted as set forth in the commission's order.

INDUSTRY reaction generally took the form of fear that the pattern of the commission's temporary action might subsequently be translated into more elastic policy without regard for a pipe-line company's ability to run its own affairs under a contractual relationship with its wholesale customers. Some industry men seem to have an uncomfortable feeling that they can see the controversial nightmare features of "end-use" control peeking out from underneath the broad principle of "emergency allocation." None will deny that there *is* an emergency, and nobody can clearly show how temporary it might be. As long as that is the state of affairs, there does not seem to be much the industry can do about such allocation orders except raving. Needless to say, the raving being heard along these lines in Washington is more than somewhat.

Incidentally, the way is now open for immediate construction of another natural gas pipe line from the Southwest to the Detroit, Michigan, area as a result of SEC approval of the financing plan of American Light & Traction Company. This is the parent company of Michigan-Wisconsin Pipe Line Company, which has scheduled a 1,500-mile line for completion by 1950, assuming the fortunes of finance, steel pipe, and labor supply do not complicate the timetable.

"New Look" for the Washington Plan

A PROPOSED revision of the Washington plan, which heretofore has fixed rates in the nation's capital, on a sliding-scale arrangement, was submitted to the District of Columbia Public Utilities Commission by its executive accountant last month. The plan is a modified "sliding-scale plan," but it would end the need for frequent periodical changes in the rates of the Potomac Electric Power Company. Heretofore any excess of earnings by the utility over the agreed amount has been translated into annual reductions in the rate itself. Under the proposed plan the consumers' share of the "dividend" would be credited to December bills. If, on the other hand, the utility experienced a deficit for the year, the deficit would be made up out of a special reserve fund containing the company's share of excess profits. Such a reserve, a sort of cushion or "stabilization fund," would be started with the company's excess for 1945 and 1946.

Exchange Calls And Gossip

New Plans Afoot to Modify FCC

A WELL-KNOWN thirteen-year-old with a bad case of growing pains is due for study and diagnosis by Congress again next year. The Federal Communications Act, untouched since its birth in Congress in 1934, apparently has grown too big for its regulatory breeches and is likely to be refitted by congressional tailors. The pattern which may be used is a modified version of the White-Wolverton Bill (S 1333), brought up to date by including the "New Look," as represented by various amendments suggested since the bill was first presented in May of this year.

Although Senator White, Republican of Maine, still refers to his bill as a "radio bill," and most of the amendments refer specifically to that medium, there is still one item of major importance to telephone and telegraph industry men in the measure. That is, of course, the provision that requires the Federal Communications Commission to be split into two sections, one for broadcasting and one for common carrier regulation. There was opposition to this section of the White Bill from the FCC at hearings on the bill last summer. The then commission chairman, Charles R. Denny, told the Senate subcommittee on Interstate and Foreign Commerce that the commission already had the power to divide itself under the present law in any way it saw fit. He said that in its early years the commission had even adopted such a divided operation, but had later abandoned it as impractical.

BUT Congress, or at least the Senate, seems pretty well sold on the divided FCC plan, and some of its members must have indicated as much, for Mr. Denny subsequently filed with the committee his plan to split the FCC into not two, but three divisions, adding one catch-all section to be known as the "Special Services" division. This plan, Denny intimated, was to be installed on a trial basis in September of this year. It was felt that the system would prove workable or unworkable if it were tried over a span of four months.

That 3-panel plan never went into effect. The extended meetings of the International Telecommunications Conference in Atlantic City tied up two commissioners until fall. Then Chairman Denny resigned to step into the top legal post with the National Broadcasting Company. There were plans for other international meetings which it was apparent would tie up other commissioners for long periods of time. One new man joined the commission, and the vacant chairman's post has not yet been filled. All these factors just about doomed the trial panel system, and brought about almost a certainty that Congress would get more insistent on statutory division of the commission.

Along with Congress, there are folks right in the FCC who are coming to the conclusion that, unless their work is channelized at least to some extent, the communications regulators threaten to be washed overboard in their own work. For there seems to be little doubt that there are not enough commissioners to do all the work there is to be done at FCC. International conferences might take two commissioners out of regulatory circulation early this year. Backlogs of applications in the broadcast field long since engulfed commission dockets. Enlargement

of broadcast bands, revision of allocations, and general adjustments in operation that occur frequently in the youthful industry, have each contributed their share of the work burden. And, on top of this, there may be more commission vacancies, and more hurly-burly with the Senate in getting approval of new members before the snow stops flurrying this winter. And lest we forget, there are also appropriations to be weaned from a reluctant Congress.

Box Score on Bell Rate Increases

THE Bell system companies seeking higher telephone rates in two East coast states won partial victories in New Jersey and Virginia, but looked like a loser in Rhode Island.

After nearly eleven months of litigation before the New Jersey public utilities commission, the New Jersey Bell Company won statewide rate increases of $10,515,000, or about 15 per cent for residential service and 25 per cent for industrial and business subscribers. This grant was $5,637,000 less than the company had asked, and will reflect a rate of return for the company of 5.6 per cent instead of the 7 per cent requested. It was the first boost in telephone rates in New Jersey since 1925.

The amount granted approximated that asked by the company in its original application on January 6, 1947. However, following the 5-week strike of Bell system employees in the spring, the company filed a revised application upping its needed fund request to $16,152,000 because of wage increases. The commission in its opinion acknowledged that New Jersey Bell's current rate of 3.3 per cent, less the new wage adjustments, was "unjust and unreasonable and . . . fails to afford an opportunity to earn a fair return on a reasonable rate base."

However, the commission found that the company's return would have been as high as 9.75 per cent if it obtained its requested rate schedules.

THE rate case before the New Jersey commission took forty-five days, and consumed more than 6,000 pages of testimony and 356 exhibits. The state, the Federal government, via the Treasury Department, and the cities of Newark, Elizabeth, and Camden all opposed the rate increase. Company President Barnard criticized the slash in the firm's request, saying that he doubted that the rate of return would equal the commission's estimate.

In Rhode Island, commission action on a petition of the New England Telephone & Telegraph Company to raise rates in that state by $2,400,000 yearly was stymied by special session action of the state legislature. Governor John A. Pastore called the special session in mid-November to head off approval by the state commission of rate schedules now in the hearing stage before the commission. The assembled legislators passed a measure giving the public utilities administrator until April 2, 1948, to render a decision in the case. Hearings may be resumed on January 2, 1948, on the request which would hike Rhode Island rates from 18 to 22 per cent. Governor Pastore signed the new bill as soon as it was passed. A new fight on the matter is due in the assembly's regular session next year. There is talk of writing an entirely new public utility statute in 1948 in the state.

Further down the coast in Virginia, the state supreme court unanimously upheld a decision of the Virginia Corporation Commission allowing the Chesapeake & Potomac Telephone Company a statewide rate increase. The Arlington, Virginia, county board of supervisors had intervened to halt the rate rises on three grounds. But the state high court decreed that (1) the commission did not have to honor a request for a 30-day continuance in the rate hearing, unless it could be shown that such a delay was needed to compile new evidence or additional data; (2) a rate of return to the telephone company of 5.66 per cent was "not unjust or unreasonable"; and (3) proportionately higher schedules for Arlington county than for other Virginia com-

munities was justified because the section had received preferential rate treatment in the past, and had become economically more important since the last rate adjustments. Arlington county, adjoining the nation's capital, has grown phenomenally during the war years.

INCIDENTALLY, the frequently criticized corporate relationship between Bell operating companies and the American Telephone and Telegraph Company was declared recently to be absolutely essential to solvency. The Southern Bell Telephone & Telegraph Company, a Bell affiliate, presented testimony to the Georgia commission to the effect that the company would be in receivership if it were independent. A company official said that if Southern Bell were dependent wholly on its own resources, and the Bell system advantages were withdrawn, the company would be insolvent. He said the company is operating at a deficit of more than a million dollars a year. There is some question as to the stability of the credit rating of Southern Bell over the long pull in view of these circumstances.

Tattle-tale Telephones Get FCC Approval

RECORDING of interstate and foreign telephone conversations will be fully authorized by the Federal Communications Commission on and after January 15, 1948. In an order late last month, the FCC ruled that such recording would be permitted if an automatic tone warning, notifying all parties that the conversation is being recorded, is attached to the telephone. This attachment must produce a distinct signal, repeated frequently at intervals during the telephone discussion. The attachment may be furnished or maintained by anyone, whether or not a telephone company. However, there are certain strings attached to the use and installation of the recording devices, and these strings keep control of the instruments pretty well in the hands of telephone companies.

One restriction is that the device must be of a type that can be physically connected to and disconnected from the telephone line, or switched on and off, to limit such recordings to interstate and foreign messages, and thus not intrude on intrastate messages where their recording is forbidden by local statute. Also, the equipment to connect the instrument to the telephone line must be "installed and maintained" by the telephone company.

FCC advised telephone companies to initiate a publicity campaign to instruct the public in the use and import of the device. The commission also told the companies to drop tariffs which had the effect of prohibiting use of recorders, and required them to file new ones. The new order followed generally the outline proposed in FCC's earlier report last March at which time the actual order was delayed until an engineering study of tone warning methods could be made.

However, a follow-up letter sent by FCC to officials of Bell and independent telephone companies had a different twist to it. The letter wanted the companies to let FCC know just what they are doing to make the telephone subscribers aware that their telephone conversations may be overheard by use of extension phones and other outlets of regular service. If this information is construed to mean that FCC might insist that telephone companies put similar "warning devices" on telephone extensions, switchboards, and the like, it can be easily seen that the companies will face a tremendous financial burden, along with other complications attendant upon installing such gadgets. It is pretty generally acknowledged that the public is already aware that conversations can be eavesdropped on, via use of party lines, etc. But there has been no loud kick from the public about it.

There is good reason to believe, therefore, that the request for such information was made by FCC so that it would have some protection from discrimination charges which recording device manufacturers might make in court suits to hold up the FCC order.

Financial News and Comment

By OWEN ELY

"Gas Facts"—A Valuable Compilation

THE bureau of statistics of the American Gas Association has recently issued a 166-page book of "Gas Facts"—a statistical record of the gas utility industry in the United States for 1945 and 1946. The book is divided into nine sections covering these topics: Review of 1945-46; Reserves of natural gas, oil, and coal; Production of gas in its various forms; Transmission and Distribution; Sales and Utilization; Finance, construction, and capital ratios; Labor and wage statistics; Price data on gas, electricity, etc.; and various statistical series and indexes for the gas industry.

The book contains a wealth of statistical data, much of it not readily available in other sources. It is to be hoped that it will become a regular annual publication so that gas executives, bankers, investors, and research students can readily find the answers to their questions about the industry.

A few of the tables include data for a period of years, and it would be worth while to develop more of these. Thus, table 14 (page 21) on manufactured gas production covers the period 1932-46. Table 27 (page 31) on production of natural gas goes back to 1935 but fails to include 1946, presumably because the U. S. Bureau of Mines is nearly two years behind in the tabulation of figures for the entire industry. Figures for gas *utilities* are shown in a separate table for 1945-46, and these figures might well have been carried back over a period of years. At any rate a more detailed explanation of the difference between the two sets of figures would be interesting —apparently the gas utilities produce only about 60 per cent of the total natural gas supply. Table 40 (page 48) showing the miles of utility gas mains goes back to 1932, but there is a breakdown by gas types only for 1945-46. Marketed production of natural gas (table 64, page 72) is shown for 1906-46 but, as explained in a note, these figures substantially exceed the amounts reported elsewhere as "utility sales of natural gas."

TABLE 76 (page 83) shows total gas revenues of utilities by classes of service for the period 1932-46. However, it is disappointing to find that the composite income account figures for different branches of the industry (pages 115-119) are shown only in percentage terms, in relation to revenues. The ratio figures are doubtless valuable but the original source figures also would have been interesting, since they would permit comparisons between manufactured and natural gas, analysis of historical changes in various items of the income account, etc. The balance sheet figures are also presented on a percentage basis. In these tables it is possible to work backwards by applying the percentages to total assets (which are given in a footnote) but the advantages of the percentage method of presentation seem a little questionable. On the other hand there is a definite advantage in using the percentage method in presenting the "selected composite analytical ratios" (pages 126-129).

A valuable section is the complete summary of security issues by gas companies for the period 1935-46. An interesting addition to these tables would be an analysis of the character of financing over the period—the percentage of total financing effected through bonds, pre-

ferred and common stock, etc. It would also be worth while to give a breakdown as between refunding and new money issues.

The section on Finance also includes tables on construction expenditures, with total figures for the industry going back to 1932. (A breakdown is available only for 1945-7, however.)

The last three sections (Labor, Prices, and Time Series) include a substantial amount of historical data, going back to 1932 in most cases. However, much of the data under Time Series might more logically have been included in the other sections, particularly the one on sales.

WHILE much of the data in the book is merely brought together from other statistical publications, a considerable amount of work also has been done to revise sales data as between different sections of the industry, etc. Further research should be devoted to the compilation of historical data not now available, the explanation of differences in production figures, and extension of the financial statistics. With the gradual reconciliation of historical records, more comprehensive "series" should become available and the presentation of this data in chart form would further increase the usefulness of the publication. To hold down publication costs some of the long tables giving detailed figures by states might be excluded, but made available in mimeographed form.

Potomac Electric Power Company

FIRST BOSTON CORPORATION has prepared a 7-page memorandum on the common stock of Potomac Electric Power Company. By the end of the year most of this company's stock will have been distributed to the public as a result of the integration programs of Washington Railway & Electric Company and North American Company. About 888,000 shares were disbursed by the former on October 1st, and 1,800,000 shares will be distributed by the latter on December 22nd, leaving about 273,000 shares temporarily in the North American Company treasury.

Potomac Electric, which is now traded on the New York Stock Exchange, has declined in the past two or three months from around 20 to the recent low around 13. The decline was doubtless largely due to the pressure of sales from small new holders, who received stock in the break-up of the two holding companies—together with general weakness in the market for utility equities. At the recently prevailing price around 13, the stock yields nearly 7 per cent, a remarkably high return for a stock of this caliber. We quote as follows from the First Boston analysis:

> The strength of this issue, which approaches that of a senior security, is based upon the following three principal characteristics:
>
> 1. Potomac Electric Power Company's capital structure has been maintained on a very conservative basis over a long period of years. It is the intention of the company's management to keep it so.
> 2. The territory served has shown a remarkable growth over the past ten years, and is expected to continue to grow rapidly in the future. The lack of industrialization and predominance of residential and commercial business provide the company with an above-average degree of protection against major changes in general business conditions.
> 3. Under the "sliding-scale plan" for fixing rates, rates are reviewed at the end of each year and any earnings in excess of or below the allowed rate of return become the basis for determining rate reductions or increases. This has resulted in placing the company's rates among the lowest in the country and gives the company as close to a guaranteed level of earnings as is possible for a utility company to obtain.

IN 1946 the company's average revenue per kilowatt hour sold to residential customers was 2.20 cents compared with the national average of 3.23 cents. Based on comparisons among cities with a population of 50,000 and over served by private utilities, the net monthly residential electric bill for 100 kilowatt hours in Washington ($2.51) ranked fourth from the lowest.

The First Boston memorandum gives a complete description of the sliding-scale plan for rate adjustments. Under this plan the company is allowed a theoretical return of 5½ per cent on the rate base. Since earnings (currently about 88 cents, or slightly less than the 90-cent dividend) are presently below a 5 per cent return, the company has petitioned for relief and hearings commenced on November 24th.

Wide Variations in Residential Electric Rates

THE Federal Power Commission has recently published a 64-page booklet on "Typical Residential Electric Bills" as of January 1, 1947. The figures are interesting as showing the wide difference between bills in different areas. However, the commission's comparisons are not always clearly made, since publicly and privately owned utilities are intermingled. Plants owned by Federal, municipal, or other public agencies pay little or no taxes, while private utilities have to earmark some 15-25 per cent of revenues for taxes, so that comparisons between the two are not "on all fours." Thus, the commission compares Tacoma, Washington (serviced by a municipal plant which probably obtains hydroelectric power), with Yonkers, New York (serviced by the Consolidated Edison system). The Yonkers bill for 100 kilowatt hours was $5.10 or exactly three times the amount of the Tacoma bill.

However, some private companies also have extremely low rates. Madison Gas & Electric (United Light & Railways system) holds the record, 100 kilowatt hours costing its residential customers only $2.40. Cincinnati Gas & Electric charges only slightly more—$2.50 or about half the Yonkers rate; and Potomac Electric Power charges residents of Washington, D. C., only $2.51.

Among communities of less than 50,000 population, the honors for low rates go to the municipal companies, but it is interesting to note that, among the examples of high rates for communities of this size, publicly owned utilities also are well represented. Thus we find that the publicly owned utility in Eugene, Oregon, charges only $1.80 per 100 kilowatt hours, while the municipal plant in Key West, Florida, charges $6.18, or about 3½ times as much. In Manitowoc, Wisconsin, the municipal charge is $2.15 while in South River, New Jersey, the bill is $5.67. In still smaller communities we find a municipal plant in Oklahoma charging as high as $7.10 and one in L'Anse, Michigan, $7.

THE bills for larger consumption by residential customers—250 and 500 kilowatt hours—are marked by the same variations. Among communities of 2,500 to 10,000, publicly owned utilities apparently make a worse showing than private utilities, if the municipalities selected by the FPC are typical.

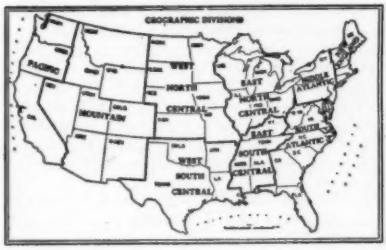
Turning to the chart showing average bills by states per 100 kilowatt hours, it is natural to discover that those states where electricity is largely obtained from huge tax-free Federal power developments (such as Tennessee, Washington, and Oregon) have the lowest rates; power in these states is largely subsidized by the Federal government which has financed the construction of TVA, Bonneville, Grand Coulee, etc. The average for the United States is about $3.75 contrasted with $2.54 in Tennessee, $2.66 in Washington, and $2.96 in Oregon. But private companies must pay out on the average about 10 per cent of revenues for depreciation, 20 per cent for taxes, and 30 per cent for capital costs (including surplus, which is usually reinvested in the property)—a total of about 60 per cent. With depreciation, taxes, and capital costs far lower for Federal agencies than for private companies, obviously their rates should be correspondingly lower.

It is difficult, of course, to account for the wide variations in electric rates and bills among private utilities, though there is usually a logical explanation if careful comparison is made.

FEDERAL POWER COMMISSION

LOWEST AND HIGHEST TYPICAL BILLS FOR 100 KILOWATT-HOURS RESIDENTIAL ELECTRIC SERVICE

JANUARY 1, 1947



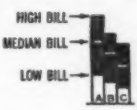
RANGE OF 100 KWH BILLS -- UNITED STATES

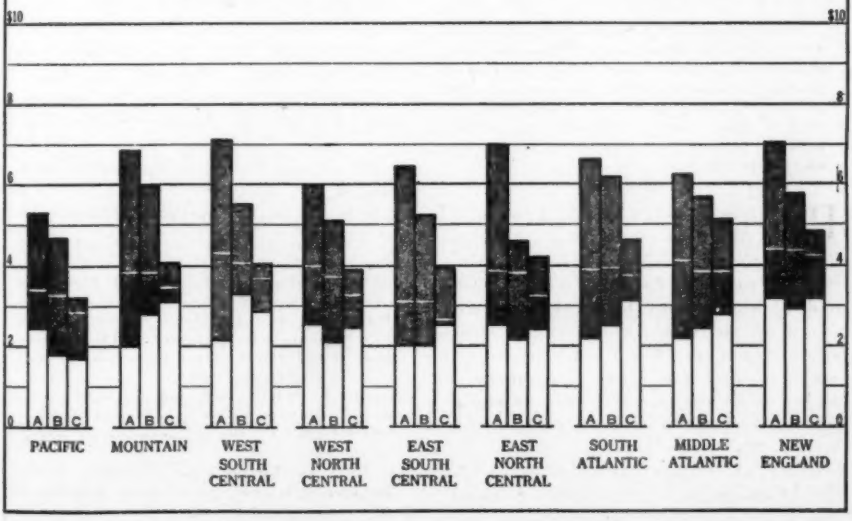
LEVEL OF BILL	COMMUNITY	STATE	AMOUNT
COMMUNITIES OF 2,500 TO 10,000 POPULATION			
HIGH BILL	ARDMORE	OKLAHOMA	$ 7.10
LOW BILL	ROCKFORD HARTSELLE CORINTH STARKVILLE TUPELO FAYETTEVILLE LEWISBURG HARTVILLE TRENTON	ALABAMA MISSISSIPPI TENNESSEE	5.00
COMMUNITIES OF 10,000 TO 50,000 POPULATION			
HIGH BILL	KEY WEST	FLORIDA	$ 6.15
LOW BILL	EUGENE	OREGON	1.80
COMMUNITIES OF 50,000 POPULATION AND MORE			
HIGH BILL	MOUNT VERNON NEW ROCHELLE YONKERS	NEW YORK	$ 5.10
LOW BILL	TACOMA	WASHINGTON	1.70

LEGEND

COMMUNITY SIZE GROUPS

A 2,500 TO 10,000 POPULATION
B 10,000 TO 50,000 POPULATION
C 50,000 POPULATION AND MORE





What Others Think

Flynn *versus* TVA

TEN million or more readers of the world's most popular magazine, *Reader's Digest*, must have been given something of a jolt recently when the December issue came out with a blast against that blue ribbon exhibit of planned economy, Americanized Socialism, democracy on the march, et cetera, and, to wit: the Tennessee Valley Authority. It must have been something of a jolt for two reasons: (1) The *Digest* has heretofore published several articles in favor of TVA and similar regional authority proposals. (2) The author of the criticism was none other than a long-time advocate of TVA, the well-known professional writer, John T. Flynn, who hastened to assert that his criticism was meant to be constructive and that he is still in favor of TVA, as such.

On this point, Flynn stated in his article, entitled "The Hidden Red Ink in TVA's Books":

> Do I want TVA destroyed? Certainly not. But we must submit TVA to the yardstick which it now tries to forget. Just as we had to have commissions to stop private utilities from soaking the customers, we should have some authority to prevent publicly owned power projects from soaking the taxpayers.

PROBABLY nobody was jolted harder by Mr. Flynn's criticism, however limited or well intended it may have been, than TVA itself. It responded by making available to the press an answer, about as long if not longer than Flynn's original article. This TVA reply was in such spirited tone that it even raised some question as to Mr. Flynn's sincerity. After pointing out that Flynn had repeated charges heretofore and variously made by certain interests "which would like to see TVA destroyed" (naming the Edison Electric Institute, National Reclamation Association, National Association of Electric Companies, U. S. Chamber of Commerce), the TVA release stated:

> A charitable view of Mr. Flynn's proposal for scattering TVA's regional responsibilities among the pigeonholes of the various Federal bureaus suggests that he hasn't read the TVA Act and is unfamiliar with its purposes. A less charitable view suggests that he understands the act and its purposes so well that he knows precisely what would accomplish the purpose which the enemies of TVA have long sought, unsuccessfully, to achieve.
>
> Whether naïve or calculated, Flynn's desire to abolish the TVA as a regional agency would deny the purpose for which Congress created the TVA....

And what is it that Flynn finds so wrong about TVA? Chiefly, it has to do with interest dodging and juggled bookkeeping. TVA has grown from a single river-flow dam and two obsolete nitrate plants—hangovers from World War I—to 28 dams on 650 miles of river, running through 7 states, plus 10 steam plants and miscellaneous side ventures into fertilizer, parks, forestry, etc. It has cost $762,000,000 and has become the model if not the pattern for similar plans in 9 other river basins, some of which would dwarf TVA in size and cost if adopted.

As to the interest not paid, Flynn said:

> . . . The government *borrowed* and put up the money and pays interest on it. In addition the plant must be operated. The operation costs over fourteen years up to June, 1946, including the interest paid by the government, were $339,000,000. The revenues were $209,000,000. Thus there was actually a *deficit* of $130,000,000.
>
> But TVA has a different figure. It arrives at it by leaving out of its accounts the $129,000,000 paid by the government as interest on the loans.
>
> TVA carries on many activities. Power production is only one of them. The figures given above are for the entire program, including power. Now let us look at the power enterprise *alone*. TVA insists it is selling

power cheaper than the private companies and doing so at a profit. Let us see.

The total investment in TVA power—using TVA's own accounting assumptions—is $462,000,000. All of this was borrowed by the government. A TVA propaganda book claims that "the total net profit from power since the beginning in 1933 to June 30, 1944," was $38,000,000. But, alas, this left out the fact that $53,000,000 was paid by the government as interest on the money borrowed to build the *power* plants. Hence, a *power* deficit of $15,000,000.

CONCEDING that TVA could never accept such figures, Flynn noted that TVA's own "independent" accounting firm pointed out that "net results stated for this program do not include any charges for interest." He also cited the U. S. General Accounting Office as follows:

> Unless all costs for TVA's power operations are included in its income statement . . . it cannot be conclusively shown that the power operations are self-supporting.

Flynn observed that government housing, although annually over $4,000,000 in the *red*, faithfully records interest costs which, if ignored, would leave it a *profit* of $14,000,000. Likewise, Bonneville dam is charged 2½ per cent interest. Even a small part of TVA's power investment debt—$58,000,000—pays 1 per cent interest. The other part—$404,000,000—pays none. Private corporations would not be permitted by law to ignore interest and call the remaining revenues over expenses "net income."

Referring to TVA's function as a yardstick to measure private utility rates, he asks "What sort of a yardstick is it which leaves out a whole foot?"

As to debt liquidation, Flynn stated:

> The TVA Act says its power project must be self-liquidating. The GAO says it will never be until its electric rates produce enought to liquidate its debt. The Appropriations Committee of the House says it should liquidate its debt in forty years. This alone would mean an annual minimum payment to the government of $11,000,000. Who should pay the cost of the power plant which produces power if not the people who enjoy the use of that power as is done by the customers of every private utility in the land?
>
> The General Accounting Office has said the books do not tell the whole story. *It is not all there.* All of which recalls the complaint of Dr. Arthur Morgan, first TVA chairman, who declared that there ought to be an impartial investigation of the "obscure financial record of the power program."

FLYNN also found that TVA estimates of power costs are confused. He said on this:

> There can never be any authoritative accounting of the cost of TVA power until the total amount of the investment in power has been settled. It is this that the General Accounting Office referred to when it recently reported that "the power debt should be finally determined."
>
> I have examined patiently most of the evidence on both sides of this subject and have gone to the TVA country to check on the respective claims. I believe there is no escaping the conclusion that the allocation of power investment and costs made by TVA is arbitrary and that if it is ever audited by a competent board of impartial engineers and accountants it will be found that the power investment and debt is not $462,000,000 but $600,000,000 at the lowest.
>
> The reason for TVA's claim of lower power investment is plain. The more costs TVA can unload on navigation and flood control, the less the costs of power will *seem*. By the accounting trick here described TVA has cut more than $150,000,000 from the debt due for power. They can also reduce the seeming cost of operating the dams, because now they charge off most of the cost of operating the "common purposes" of the dams to navigation and flood control.

What would Mr. Flynn do about all this? He lists a half-dozen points:

> . . . (1) The outstanding government debt on the power enterprise should be determined definitely and the TVA should pay the interest on it. (2) The TVA should pay off this debt in forty years. (3) These items and all other costs should be included in the rates charged for power. (4) The TVA directors should not be the sole judges of the amount of the investment in power. (5) All the nonpower activities of TVA—agriculture, fertilizer production, forestry, and other projects—should be transferred to appropriate departments of the government. They should be divorced from the TVA power project to which they have no rational relationship. (6) The costs of these activities should be paid out of authorized congressional appropriations like any other costs of government.

The Flynn article ended on a note of worry about a new and different regional type of government being superimposed on areas without their vote or consent.

This is not, he says, what Congress intended. It is not "democracy on the march," to use Mr. Lilienthal's phrase. Flynn thinks it is "democracy in retreat."

THE TVA response does not entirely traverse the full face of the objections to TVA practices raised by Flynn. Some of it pointed out the benefits of electricty, flood control, navigation, etc., which Flynn had not denied, and further insisted that TVA is not primarily a power project (because the U. S. Supreme Court said so), although Flynn and a good many other people in the country persist in entertaining a contrary notion and probably will continue to do so.

As to interest, the TVA statement calls attention to the fact that TVA pays some interest (on its bonds) and that it otherwise devoted "earnings" to the amount of $92,000,000 to reinvestment in the project, thereby "increasing the property of the owner." Some money has even been actually turned over to the Treasury—$15,000,000, "a cash dividend." Still more has been used to retire bonds, $8,500,000, thereby increasing the government's ownership "free and clear."

Flynn's contention that TVA ought to record interest which it does not pay on its entire power investment is dismissed as a "false assumption that interest is an element of cost," whereas it really is an element of return or profit. The statement claims that regulatory commissions in fixing the rate of return for public utilities "do so without considering interest." On this basis, it is submitted that TVA's return on its power investment last (fiscal) year was 5½ per cent, or "more than enough to pay Flynn's assumed rate of interest had it been required." But all of this 5½ per cent ($22,000,000) "belongs to the Federal government."

The TVA statement did not take kindly to Flynn's suggestion that it should record interest (on its whole power investment) which it does not pay "in order to make it comparable to private utilities." It asks, in turn, whether it should also record—simply for better comparison—payments (which it does not make) allegedly made by private utilities for industry publicity, lobbying, etc. One interesting solution might be to try the interest comparison, first, to see how that would look, before bothering about assuming other and more questionable burdens, purely for comparative purposes.

ANYHOW, the TVA defense statement makes a noteworthy suggestion that unless the compared private utility debt is on a sinking-fund basis (which would amortize it as well as merely pay interest), it is unfair to single out unpaid interest payment alone, while disregarding the fact that TVA is required by law to pay off its entire investment of Treasury funds in its power system in forty years. It claims further:

> The destructiveness of the proposal, Flynn's denial of intent to the contrary, is apparent. The requirements both for return of the investment and the payment of interest would reduce the financial flexibility which TVA must have to meet its obligations as a power supplier on which three-quarters of a million consumers depend. TVA has only two sources of funds, appropriations and revenues. Unlike a private utility it cannot borrow (its bonding power having lapsed), either by floating bonds or issuing short-term notes. Payment of interest plus repayment of the investment would make a double drain on revenues. It would place TVA power operations in a straitjacket in which no private utility company could or would attempt to operate.

As to tax exemption, the TVA release ends on an amusing note in the classical device of appealing from Philip drunk to Philip sober, or maybe vice versa in this case. Seems that back in 1939 Flynn had written in the *New Republic* a defense of TVA tax exemption by pointing out that taxes paid by private utilities come out of the hides of the people, anyhow, in the form of rates, so what's the difference? The difference, it seems, is either in the Treasury or it isn't. Anyhow, TVA agreed with Flynn in 1939. It does not agree with him in 1947, as you may have gathered from this digest.

TVA points out that state and local ad

valorem taxes paid by private companies since purchased by TVA and local municipal agencies amounted to some $3,000,000, as compared with $4,100,000 now paid by such agencies "in lieu of taxes." —F. X. W.

Is It Arbitration—Or Socialization?

SPEAKING before the New York State Motor Bus Association's annual convention, John E. McCarthy, president of the Fifth Avenue Coach Company (New York), called for recognition of the need to qualify decisions rendered in arbitration of labor demands. He supported the view that arbitration often results in a compromise unsatisfactory to a greater or lesser degree to either party to the dispute. The decision reached, he believes, is made with little regard for revenues and contains the potential power to drive the private utility out of business. He declared:

> Some corrective measures must be taken, or we must resign ourselves to socialization of American public utilities under the innocent guise of "voluntary and impartial" labor arbitration. We must resign ourselves to continuation of arbitration awards so excessive that free enterprise must throw in the sponge and the various municipalities take over their operation.
>
> The utility continues operating because it is a vital public service. But now it operates under municipal control and the taxpayers pay the bill and shoulder the deficits.

McCarthy's objections are focused on two principal points: (1) the dictatorial powers at the disposal of the arbitrator, and (2) the finality of a decision reached through arbitration. He is convinced that public utilities are unable to resist the pressure from governmental agencies when confronted by labor difficulties. They are forced, therefore, into arbitrating when that may lead eventually to the financial ruin of the utility. Repetition of the demands at strategic intervals would maneuver the company into municipal hands.

THOUGH he found arbitrators to be "men of integrity and good conscience," he said that the "great majority come from the ranks of lawyers, theorists, and idealists, who served with national or regional labor boards." He assumed it was natural that as human beings their acts tend to protect their own livelihood. He qualified his criticism by excluding commercial arbitration which, he said, "has a proud record of achievement," and has "become an integral part of the American business picture" because it "speedily and equitably—and finally—settles differences of opinion."

The November 20th *New York Herald Tribune* commented on the situation referred to by McCarthy in an editorial entitled "Where Labor Arbitration Falters," from which we have taken the following:

> It should be borne in mind that a public utility, whether privately or publicly operated, may charge for its service only what the law prescribes, also that the operator may not voluntarily interrupt its service, whatever his losses. His only recourse is to relinquish the property to the municipality. This in turn is an incitement to a radical union, or one under the thumb of a radical leader, to press for demands which are plainly beyond the financial ability of the operating company to meet.
>
> For industry in general, we should say, voluntary arbitration, with agreement on both sides to abide by the arbitrator's findings, offers the best solution of protracted labor disputes. But one must recognize that in the ordinary case the question of the employer's financial survival is vital not only to him but to his employees whose jobs are at stake. For the reasons we have cited, the public utility privately operated is in this respect in a class by itself and should be protected accordingly.

McCarthy's company has negotiated contracts on two occasions with the Transport Workers' Union (CIO) via the arbitration route.

THE NEW YORK TIMES of November 21st commented editorially on the Fifth Avenue Coach Company's predicament under the caption "Familiar

Pattern." It is reproduced here in full:

> When some service vital to the people's welfare, such as mass transportation, is involved in a labor dispute that threatens to become a paralyzing strike the routine is familiar. Management and employee union spokesmen go through the motions of talking over the main lines of a new contract, with the union ordinarily making extravagant demands; an impasse is reached, and a union vote to authorize a strike is taken; city hall becomes alarmed and calls a conference; the public is, by now, becoming wrought up, wondering how it will get to work; the strike deadline approaches and there are solemn or frenzied demands that there be no strike; now the union, knowing it stands little chance to lose, makes the gracious gesture to submit the whole issue to arbitration; city hall now shifts its whole attention to management, demanding that it be "equally" cooperative; the mayor or some lesser official, with the support of a perhaps inadequately informed public opinion behind him, cracks down on the company and insists with all the prestige of his office that the company agree to arbitrate. The company, under the screw, facing hostile public opinion and the threat of a disastrous strike, accedes.
>
> The public is under the impression that justice is served by this method. That might be true if the company were free, as quickly as an award was in, to increase its charges to an extent that would restore the balance between expenses and revenues, or if arbitrators invariably took into account a company's financial position and the strait-jacket in which it lived, moved, and had its being. For a bus company operating in New York city that is not the way things work, as the record shows. The city, to this moment, has not yielded ground on the nickel fare for its own surface lines or for private lines. Some private lines have already been pushed over the cliff because of this 5-cent fare and are now in the city's hands. Others may face the same prospect.
>
> We believe that President John E. McCarthy of New York City Omnibus Corporation and of the Fifth Avenue Coach Company has made out a good case in his recent statements pointing out the unfairness of arbitration when applied, without recourse, to public utilities. As he says, in these circumstances "voluntary" arbitration has come to mean making up your mind whether to commit suicide by gunshot or by poison.

As an alternative to the mode of arbitration to which he objects, McCarthy recommended two "common sense remedies": (1) establishment of a system of Federal labor courts; (2) amendment of the present arbitration laws by state legislature to provide for court review of public utility case decisions, or creation of a special panel to review the cases.

A Day in the Life of a Meter Man

THE October issue of *Service*, Cities Service Company's publication for employees and customers, ran an article on the trials and tribulations of the meter reader. It seems that a person choosing this occupation must be a hardy and adventurous individual, ready to cope with any situation that may (and often does) arise. Encountering animals seems to rate high in any tabulation of their daily adventures. Anyone else might choose to divide this category into "domesticated" and "wild," but meter readers would probably not draw so fine a line.

Because of the nature of their work, readers avoid long conversations, bill estimates, or repair work. They are quick to detect a leak or a change in consumption rate not in conformity with the expected pattern. The article stated:

> . . . he is familiar with the uses and consumption of gas by his customers, and any sharp deviation catches his eye. The winter being over, one reading dropped sharply because the house had been heated by gas furnace. At the next place, consumption was up because, with the coming of warm weather, water was heated by gas instead of the coal furnace.

When leaks are detected, the reader will call the company to report the trouble, but when asked to make pilot light adjustments on appliances, he will supply the proper agency's phone number and suggest that their serviceman come out to attend to the matter.

Locations of meters are far from uniform, according to this article, and the meter man will have notes in his meter book giving the locations. In the event that a substitute must follow the same

"STICK AROUND—WE'LL SEE IF THIS NEW GUY'S GOT A SENSE OF HUMOR OR NOT!"

route on another occasion, the trail will be properly blazed.

An interesting fact brought out in the article, not widely known, is the practice of reading meters through the window of the basement, sometimes at a distance of eight feet. Another practice that attempts to circumvent the "nobody home" situation is described as follows:

> Some customers entrust the company with keys . . . with each key identified by a metal plate, on which had been stamped a number corresponding to the meter number.

However, the article warns, there is great danger in the practice of leaving a door unlocked and a sign saying "Gas man—lock the door when you leave." This is an open invitation for some prowler or other to roam the house and frame the gas man.

Bill, described in the article as an "old hand at reading meters," told the following story:

> Last winter, working on a new route, he was told by a woman that there was "a little water in the basement." At what appeared to be the foot of the stairs he tumbled into a washout and got soaked up to his neck. Thoroughly drenched, he climbed back upstairs to warm himself in the kitchen. "Don't stand there dripping dirty water over my floor!" the woman stormed. But Bill stood his ground until she found him some old clothes and called a taxi to take him home. "It was three above zero that morning," he recalled.

Safety precautions employed by meter readers are explained in this same article. They are careful to close doors, especially

trap doors, in order to avoid claims. Also, the handles of entrys to grocery store cellars are turned down so that no one using the sidewalk would trip over it. Meter men must move cautiously in narrow closets where bare electric switches are installed on the opposite wall.

In conclusion it is said that records kept on one meter reader for a year showed that he averaged reading 272 meters a day, missed an average of 24, and made only six errors during that period—a better than average record for accuracy. The meter reader is on his own, no boss to look over his shoulder, the article says, and work stops when the route is covered.

—F. T.

Mrs. Roosevelt on Private Ownership For Railroads

MRS. ELEANOR ROOSEVELT in her well-known column "My Day," copyrighted by United Features Syndicate and appearing in *The Washington Daily News* (Scripps-Howard) and other leading newspapers throughout the country, has gone on record in favor of private ownership of the nation's railroads. The column is date lined Geneva, Switzerland, and contains a brief probe into what railroad nationalization would mean to our economy. The inquiry opens with a consideration of the regulation and taxation of railroads.

Mrs. Roosevelt reveals to her readers the pattern of Federal, state, and local regulation. She mentions the Interstate Commerce Act of 1887 and describes in a general way subsequent regulation of freight and passenger rates, the necessity of publishing tariffs, hours of service, and other laws affecting safety standards, minimum wages, accounting, etc. Limitations on the issuance of securities, mergers, expansions, and abandonment are mentioned along with the need for approval on any of these by the proper governmental regulating agency. In dismissing the subject of regulation, Mrs. Roosevelt says:

> Railroads are still regulated as a monopoly even though they now compete with many other types of transportation.

In considering the taxes railroads must bear, she divides them into three convenient categories:

(1) Federal normal income, surtax, and excess profit taxes.

(2) Taxes for pensions, social security, and so forth.

(3) State and local taxes on physical property, franchise taxes, excise, license, and miscellaneous taxes, as well as state income taxes.

She declares "The annual tax bill of the railroads depends upon earnings," and adds:

> The taxes of class I railroads prior to World War II varied from $237,000,000 to $396,000,000 a year. Naturally, during the war their taxes soared, but even in 1946 they were only a little short of $500,000,000. In many countries, railroads are the largest taxpayers. In 1946, class I railroads paid $2.13 in taxes for every $1 paid in dividends.

ELEANOR ROOSEVELT speaks of the trend toward rail consolidation which, she says, is typical of every other business in our country, but states that, in the rail case, it proceeds under careful regulation.

She finds:

> . . . it is competition which is the incentive for improvement of all private enterprise. If the railroads were owned by the government, this incentive would disappear. And operation under the government would be bound to have some political taint.

This viewpoint seems to clash with those of certain New Dealers who are (or were) certain that competition had declined in importance, if it had not disappeared altogether. It also shows a fundamental difference in faith from

the proponents of extreme centralization of authority over key industries and utilities.

Mrs. Roosevelt gets into the economic implications of government ownership when she says:

> The main reason I have chosen to look into railroads is because obviously nationalization in this field would be the entering wedge to widespread nationalization of industry. The government would not be likely to permit competition from other forms of transport and would therefore be prone to nationalize not only transportation but some of the essential elements which enter into the functioning of transportation.

The wife of the late President concludes her comments by calling attention to the fact that "our country is very large, and we still have conditions which make it seem probable that, under private ownership, the railroads can be better and more cheaply run, and can furnish the government—Federal, state, and local—with a substantial amount of revenue."

Mrs. Roosevelt proposes to present a labor leader's arguments in favor of nationalization at a later date.

—F. T.

More Problems Than Profits

Most distributors and dealers of major electrical appliances are working on a narrower profit margin now than they did in prewar years. This is one of the basic problems which marketers of major appliances must solve before production catches up with demand. Such was the gist of a talk on "Appliance Marketing Problems" given by Gerald Hulett, vice president in charge of sales, of Electromaster, Inc., to the members of the Southeastern Electrical Exchange in Atlanta on October 30th. Speaking on margins of profit available to distributors and dealers, Hulett claimed:

> Under present circumstances, the dollar margins are adequate, but they will not be sufficient as soon as supply begins to catch up with the demand and manufactured goods can no longer be allocated direct from the freight car. The distributor will then have to reassume many of his old-time functions of warehousing, financing, delivery, and other services for which his present margin of profit will obviously be inadequate.

The necessity for distributors and dealers to return to the more extensive promotional and selling programs of the past was discussed by Hulett. He pointed out that present sales efforts have in most cases been tailored to fit a relatively small allocation of appliances. As manufacturing volume increases selling efforts must expand rapidly. Hulett discussed, in addition, the problem of time-payment selling and said that recent surveys indicate that dealers generally benefit from a return to normal time-payment selling, but added, we hope the "deplorably loose credit policies which were sometimes found before the war will not be repeated."

Reviewing briefly the selling problems which are likely to be encountered in the transition from a "scant production market" to a "full production market," Hulett outlined the necessity for intensive training of sales forces, and for a sharp awareness on the part of distributors and dealers that sales costs have generally risen all along the line. Hulett said:

> While the appliance marketing problems may look like new ones and indeed do present new aspects, the principles of sound merchandising are precisely the same today as they have always been.

Hulett is convinced that the future holds an increased and sound market for appliances on a broader basis than before the war. He cited the increased buying potential of America's farm population, and the almost certain increase in a national home-building program, as factors which will increase the demand for electrical appliances of all kinds.

Home Planning Booklet Issued by Electrical Living Committee

"PLANNING Your Home for Better Living—Electrically" is the title of a 32-page, 4-color booklet just published by the Electrical Living Committee.

Intended to serve as a guide for both the home buyer and the home remodeler, the booklet emphasizes the importance of intelligent prior planning, and proper selection of equipment, to insure easier living and a really modern home. The low cost and greater efficiency gained by "building in" an adequate wiring system for the heavier electrical equipment is stressed throughout the booklet.

Text and illustrations are used to take the reader on a tour through every room in the average home, showing how each should be planned for the best use of electrical servants. The section on kitchens, for example, shows the three work centers of the modern electric kitchen, and how they may be arranged in any one of four basic designs, for maximum work—and step-saving value. The step-by-step modernization of old-fashioned kitchens is covered in detail.

Succeeding pages provide helpful information on planning for efficient use of electricity for better living in the laundry, bedroom, bathroom, living room, and basement. Many types of lighting fixtures and lamps are illustrated and described. The need for an adequate wiring system is discussed at length.

"WE feel that this booklet will show the average customer many new and desirable ways to use electricity for better living," M. E. Skinner, chairman of the Electrical Living Committee, said. "Readers will appreciate, perhaps for the first time, just what electricity will bring them, in terms of freedom from work and care; and how electrical equipment and appliances will keep a home modern for many years to come."

"Planning Your Home for Better Living—Electrically" is available at the Electrical Living Committee, 420 Lexington avenue, New York 17, New York, at 25 cents per single copy. Quantity prices are available on request.

Father Knickerbocker to Get "the New Look"

NEW YORK city is to have its first "outskirt" parking lot. The mayor's special traffic committee has announced that the northern end of Flushing Meadow park, site of the 1939 World's Fair, will be utilized as a free parking area for Manhattan-bound motorists. The committee, headed by Police Commissioner Arthur W. Wallander, hopes the lot will attract those autoists who would ordinarily drive all the way into the city. According to the plan, drivers will be able to finish their journey by subway. It is another step in the campaign to keep as many autos as possible out of mid-town areas.

The Flushing Meadow lot can hold 3,000 cars. If successful, the entire World's Fair parking field eventually may be used. In that event, declared Arthur H. Hodgkiss, executive officer of the parks department, there would be room for 13,000 autos.

James A. Burke, borough president of Queens, who has been active in clearing up traffic congestion, is to be responsible for supervision of the lot.

Other cities have found outskirt parking lots satisfactory in filtering off cars before they reach congested business districts. Cleveland city authorities recently reclaimed several acres of wasteland near Lake Erie for use as a 2,000-car parking area. A specially routed transit line carries Clevelanders from the lot into the heart of the city.

The March of Events

In General

FPC Approves Sale

THE Federal Power Commission on November 26th approved the sale of electric facilities of Ark-La Electric Coöperative, Inc., to the Arklahoma Corporation for $3,800,000.

It also approved their lease for thirty years to Southwestern Gas & Electric Company, Arkansas Power & Light Company, and Oklahoma Gas & Electric Company, holders of Arklahoma capital stock.

The yearly rental will be $143,900 for 1948 to 1967, inclusive, and $145,900 for 1968 to 1977, inclusive, plus interest, depreciation, and taxes.

The lessees have an option to purchase the property after two years.

Regional Value of Power

CONGRESS must realize development of Northwest power resources is "basic to the economic life of this area" and not just another public works program, Dr. Paul J. Raver, Bonneville Power Administrator, said recently.

Dr. Raver described the Pacific Northwest power shortage as "acute" in an interview in Spokane. He emphasized that new industries are unable to enter this area because of lack of power, while at the same time existing industries are asking for more power.

Power shortages will continue to exist in the area until 1954, he predicted, and will continue after that unless Congress authorizes construction of the Hungry Horse, Montana, Foster Creek, and McNary dams. Hungry Horse dam might be completed by 1952 if present recommended schedules are followed, he said, with McNary finished by 1954 and Foster Creek sometime later.

Power Merger Upheld

THE ninth United States Circuit Court of Appeals recently upheld the merger of the Northwest Electric Company and Pacific Power & Light, which serve Portland, northern and eastern Oregon, and Clark county, Washington.

The court rejected an appeal brought by Interstate Electric Corporation, the Washington Public Utilities Commissioners Association representing 29 Washington counties, and the Washington state grange.

The public utilities commissioners alleged the merger threatened development of Columbia river power projects and the public utility district program to bring public power to rural areas.

Interstate Electric, it was alleged, had sought to purchase the two companies for $34,000,000. Originally they were subsidiaries of American Power & Light Company, a holding company dissolved in 1942, but in 1946 the Federal Power Commission granted permission for the two companies to merge.

County Regulation Attacked

SUIT was expected to be filed in the U. S. District Court of Florida early in December to test the validity of the Pinellas utility board, established by the Florida legislature. This is the only county regulatory board of its kind in the United States. A similar proposal to establish a board in the city and county of Denver, Colorado, was recently rejected by the voters of that community.

Arizona

Bond Issue Plan Approved

AUTHORITY to issue and sell to private insurance companies a $2,500,000 block of 3⅛ per cent bonds to help finance necessary extensions of and improvements to its power and gas system was granted the Central Arizona Light & Power Company recently by the state corporation commission.

Henry B. Sargent, company president, advised the commission that of this amount approximately $2,000,000 will be spent for additions to the company's steam plant in Phoenix, including a new 30,000-kilowatt generating unit.

Sargent said this addition will increase greatly the efficiency of the steam plant as a whole and will help to alleviate the power shortage. He added, however, this shortage cannot be overcome completely until power is available from Davis dam.

Frank L. Snell, counsel for the utility company, said the bond sale does not require approval of the Securities and Exchange Commission since it is a private sale to insurance companies and not a public offering.

Arkansas

New Utility Taxes

MAYOR Wassell will not veto ordinances levying taxes against Arkansas Power & Light Company and Southwestern Bell Telephone Company, passed by the Little Rock city council last month.

The mayor's veto of the $55,000 annual tax for five years against Arkansas Louisiana Gas Company was overridden by the council by a unanimous vote. He opposed the attempt to freeze privilege taxes of utilities for five years.

"I have reconsidered the matter and I believe there's no use vetoing the ordinances, since it will only kill time," Mr. Wassell said. "The city council indicated unanimously that it wanted to make a 5-year proposition out of the taxes. I have no idea of increasing any taxes but I didn't want to tie the hands of any mayor serving in the next five years."

The mayor declared that he felt it would be "wrong to give any taxpayer a moral promise that there would be no change in his taxes irrespective of conditions that might arise within five years."

City Seeks to Buy Plant

A PROPOSAL that the city of Mountain Home buy the Arkansas Power & Light Company holdings in the city and operate a municipal power system was approved by the chamber of commerce at a meeting in the city last month. Mayor V. E. Hutcheson said that a municipally owned power system "would end our financial troubles, afford plenty of money for regular city operations, make possible the construction of a sewer system, street paving, and other improvements which the city cannot afford."

He said that he and members of the council had talked with C. Hamilton Moses, president of the Arkansas Power & Light Company in Little Rock, and had been told that company holdings in Mountain Home are not for sale.

California

Fare Increases Granted

PART of the fare increases sought by the Pasadena City Lines, Inc., was granted recently by the state public utilities commission.

The lines, which also serve Arcadia and Monrovia, were granted an increase

in fare from 5 to 7 cents between points on the so-called "inner zone," or between Zones 2, 3, and 4, with the provision that tokens shall be four for 25 cents. Student fares were changed for all zones from a straight 5-cent fare to a 40-ride ticket for $2.

Increased fares on Key System trains and busses—both for local service and trans-bay commuting—also were approved by the state commission last month.

In Oakland, meanwhile, representatives of the Key System and the franchise committee of the Oakland city council were deadlocked on the matter of whether the city or the state commission should regulate the line. The Key System had outlined a franchise under which the commission would continue to be the regulatory body. Such powers were granted to the commission by Oakland in 1914. Now, however, the city wants to return to regulation of its public transportation system.

Workers Win Pay Hike

More than 6,200 employees of the Pacific Gas and Electric Company outside the Bay region won $2 weekly pay hikes under a 90-day contract signed late last month with the AFL International Brotherhood of Electrical Workers. A spokesman said the union will resume negotiations February 1st "for the balance of our original 10 per cent pay increase demand." The recent raise represented a 3½ per cent increase, the union said.

The CIO Utility Workers' Union, which represents approximately 5,000 PG&E employees in the Bay area, also was seeking a wage increase.

Indiana

Demands Straight Fare

Attorneys for Indianapolis Railways last month said, that, unless a demand for a 10-cent straight fare is authorized by the state public service commission, they will institute legal action to obtain such a fare. This statement came from Arthur L. Gilliom, attorney for the transit firm, as the hearing in a fight for a higher fare opened in Greenfield in Hancock Circuit Court.

Mr. Gilliom said present rates of three tokens for a quarter, a 10-cent cash fare, and a 2-cent transfer are confiscatory and that the company must have the straight rate of 10 cents to survive.

The legal action was brought by the transit firm in efforts to set aside a commission order of July 1st which set a three-for-a-quarter token rate, a 10-cent cash fare, free transfers, and a 5-cent school rate. The company has been charging for transfers and charging school children the normal fare under terms of an injunction issued by the state supreme court.

The company claimed that it earned only $170,000 in the first ten months of this year, leaving it $332,000 short of what it said it must have to pay bond interest, fixed charges, and depreciation.

Kentucky

Record Tax Valuation Set

The Kentucky Tax Commission last month assessed Louisville Gas & Electric Company for 1947-48 taxes at a record high of $56,500,000. The utility's tax valuation in Jefferson county alone is $51,006,136.

The recent final assessment was an increase in valuation of $2,250,000 over the assessment for 1946-47 taxes. Bulk

of the increase was applied to property in Jefferson county. The company's over-all valuation in the county was increased $2,231,546. Its assessed valuation in the city of Louisville is $589,340 higher than last year.

Minnesota

REA Aid to Ease Power Crisis

ELECTRICITY from an REA coöperative plant at Alma, Wisconsin, "may or may not solve" the power shortage threatening Northern States Power Company customers during the Christmas season.

B. F. Braheney, power company president, made that statement recently as he confirmed a story in the *Pioneer Press* by Alfred D. Stedman revealing plans for obtaining of the coöperative power from the REA plant. Braheney said the Alma plant was running tests, and that, if the tests were satisfactory, the company may get from 20,000 to 25,000 kilowatts of electricity from it.

He reported that holiday consumption of electricity might run as high as 585,000 kilowatts compared to 529,000 a year ago, and that consumers might be asked to cut down consumption between 4 and 6 PM daily, when the company gets its peak demand for electricity.

"The extra electricity from the Alma plant will ease the burden—it may or may not solve the present problem," Braheney said.

Missouri

Gets Permit to Build Line

THE state public service commission last month granted the Arkansas-Missouri Power Company the right to construct necessary lines for electric power at an oil pumping station near Doniphan, Missouri.

In permitting the extension, approximately 18 miles of 33,000-volt line from Corning, Arkansas, to the station, the commission said it was denying opposing arguments of two other utilities.

Both the Ozark Border Electric Coöperative and Sho-Me Power Association, Inc., attempted to block Arkansas-Missouri's move to supply electric power to the Magnolia Pipeline Company's station. The two contended Ark-Mo was trying to invade a service territory each claimed.

In its application last September, Arkansas-Missouri said the new line would cost $115,000, and gross revenue from serving the pumping station would be about $60,000 a year.

New York

Applies for Gas Rate Increase

THE Consolidated Edison Company of New York, Inc., announced recently it had applied to the state public service commission for permission to increase the maximum charge for gas from $1.15 a thousand cubic feet to $2 with declining rates after the first thousand.

The petition said that neither Consolidated Edison nor any of its predecessor companies had increased its rates since October 1, 1922, and that existing rates were confiscatory of the company's property. It was estimated that the company would lose $1,498,500 in 1947 through its gas operations.

According to the company, 57 per cent

of the gas it supplies is sold at the maximum rate of $1.15 a thousand cubic feet. The company's service area includes 1,100,000 customers in Manhattan, the Bronx, and the first and third wards of Queens—Astoria, Long Island City, Flushing, College Point, Whitestone, Douglaston, Bayside, Little Neck, and Bellerose.

The company proposed an immediate schedule of temporary rates, which it estimated would increase its annual revenues approximately $8,239,700 on the basis of estimated gas sales for 1947.

FPC Denies Application

THE Federal Power Commission recently made public an opinion and order denying an application filed by the Niagara Falls Power Company for amendment of a Federal license authorizing maintenance and operation of a hydroelectric project at Niagara Falls.

The license, among other things, authorizes the company to divert 19,725 cubic feet per second from the Niagara river daily for a period of fifty years to be used for power purposes.

The amendment was filed for the purpose of including in the project the so-called Pettebone-Cataract water rights which were to be acquired from Buffalo Niagara Electric Corporation. These alleged water rights are said to have been originally attached under state law to land owned by Pettebone-Cataract Paper Company and Cataract City Milling Company, and purport to convey the right to take and withdraw from Niagara Falls Power Company's hydraulic basin 262.6 cubic feet of water per second through a head not exceeding 100 feet. Both the lands and other properties and the alleged water rights were purchased in 1925 by Niagara, Lockport & Ontario Power Company. By agreement the land and other physical property were sold to Niagara Falls Power, the water rights in question being reserved by Niagara, Lockport & Ontario. Niagara Falls Power now proposed to acquire the alleged water rights from Buffalo Niagara, successor to Niagara, Lockport & Ontario, for $728,412.45 in cash.

The commission pointed out that Buffalo Niagara holds no authority from the United States for the diversion or use of any water at Niagara Falls and that Niagara river is a navigable water of the United States and an international boundary stream.

Ohio

Council Favors Competitive Bidding

THE Cleveland city council recently memorialized the state public utilities commission that it is on record as favoring competitive bidding and an equal opportunity to all investment brokers in the financing of public utilities. The issue before the council was one of competitive bidding *versus* private negotiation, and council voted 23 to 10 in favor of open bidding, although negotiation and other forms of financing are not prohibited by its action.

Despite interpretation to the contrary, the resolution adopted by council is not compulsory, for council lacks the authority to compel the city's public utilities to use only competitive bidding in their financing. However, use of private negotiation by utilities will mean they are disregarding council.

The council has been bombarded with arguments by Otis & Co., sponsoring the resolution for competitive bidding, and by 13 locally managed, independent investment underwriting houses which opposed the legislation.

Otis & Co. launched the fight last October after the state commission approved proposed financing by the Cleveland Electric Illuminating Company by private negotiation through a syndicate headed by Dillon, Read & Company, Inc., of New York and including the 13 Cleve-

land houses. Otis & Co. was offered participation but declined.

The proposed financing, $25,000,000 of preferred stock refunding, subsequently was deferred by CEI because of the unsettled condition of the market for preferred stock. CEI then announced competitive bids would be accepted December 9th for sale of $20,000,000 of first mortgage bonds, due 1982, with part of the proceeds to be applied on the company's $93,000,000 construction budget.

Oklahoma

Utility Board Proposed

THE city of Tulsa is planning to create a 7-member, nonpartisan utility board at the same time a proposed $17,864,250 bond issue for water and sewer improvements is voted upon, it was disclosed recently.

A citizens committee of 150 members has urged formation of the board to manage water and sewer affairs under the bond issue.

Remington Rogers, assistant city attorney, pointed out that the terms of the board could be staggered on a one-, two-, three-, and four-year basis for five lay members. It is proposed that the mayor and water commissioner be mandatory members.

Only property-owning taxpayers will be eligible to vote on the bond issue, but any registered voters will be able to vote on the creation of the board, Rogers said.

Beginning in 1950, retirement of the issue is to be started by using 50 per cent of the utility income—thus keeping the ad valorem tax load at about its present level.

The citizens' committee will select thirty names for prospective board members, from which the mayor will select five.

Oregon

Opposition to CVA Plans Voiced

THE Oregon Farm Bureau federation in its closing convention last month conformed to established policy of favoring private enterprise over government in business by taking a strong stand against a proposed Columbia Valley Authority.

In contrast, the voting delegates issued a qualified endorsement of the Federal government's rural electrification program.

Senate Bill S 1647, to form a CVA, was assailed on the grounds that such Federal agencies "are in the experimental stage, possess tendencies leaning strongly to socialistic and communistic objectives, and could be manipulated easily to impose on the people in the affected area a physical, social, cultural, economic, and political pattern over which they would have no control, and would substitute arbitrary power for democratic processes."

Continuance of western reclamation under coöperative efforts of Army Engineers, Bureau of Reclamation, and Interior Department, controlled by Congress, was favored. Included in the resolution, however, was the charge that the Reclamation Bureau "seeks to circumvent the operation of state water laws under which water becomes appurtenant to the lands served, and through contracts and other means attempts to make water a utility wholly under Federal agency direction."

Support of the REA program was voted, with the provisos that the agency make no loans for building generating plants except where a positive saving can be made to consumers or where sufficient energy is not otherwise available, and the

delegates also urged private utility companies to prosecute vigorously their rural electrification programs where not in conflict with REA.

Pennsylvania

Gas Rates Increased

RATES charged to all classes of gas consumers in Philadelphia will be increased 10 per cent, effective January 1st. Application of the Philadelphia Gas Works Company to boost the rates temporarily was approved last month by the Philadelphia Gas Commission, of which Thomas C. Egan is chairman.

"The uncontradicted evidence produced at the public hearing this morning [November 21st]," Egan said, "made such an increase mandatory due to the most recent increases in the costs of oil, coke, and purchased coke oven gas. The gas commission has been assured by the management of the gas company that the rates will be reduced as soon as adequate supplies of natural gas are received in Philadelphia."

During the hearing, Hudson W. Reed, president of the gas company, charged that heavy industrial oil is being offered at high prices in a black market while customers find it difficult to buy from refineries. In support of his company's application to increase rates, Reed also said that in the regular market oil is now 46 cents a barrel more than it was last year.

If industrial users of oil are favored above utilities in the sale of oil, he declared, "there is a possibility of a shortage of gas in Philadelphia this winter." Such a shortage, he said, would be "indeed a city-wide catastrophe, affecting all industry and institutions as well as homes and apartment houses."

The company proposed to add that increase to the total bill of each customer. Reed estimated it would amount to about $3 a year for the average householder.

Rhode Island

Offers Bus Line to Union

UNION employees of the ICT Bus Company, seeking 20-cents-an-hour wage increases, were offered the bus line by Hyman Schoenberg, president, for $250,000, but turned down the offer, the president of Division 1,398 of the AFL Amalgamated Association of Street, Electric Railway, and Motor Coach Employees said recently.

It was the second consecutive year Schoenberg had offered to sell the company to his employees, the union reported. Union officials said the company countered the union's request for a boost with a proposal to cut wages as much as 28 cents an hour in certain classifications.

U. S. Commissioner of Conciliation Charles Ray said the dispute would be settled "by mediation as provided in the contract."

Drivers on the line, which runs between Providence, Fall River, and New Bedford, get $1.08 an hour, and Schoenberg was said to have proposed cutting this to 80 cents.

South Dakota

Commission Ordinance Adopted

OVER the opposition of Commissioner Bert T. Yeager, who challenged the necessity for such an enactment, the city commission last month adopted, by a 2-to-1 vote, an ordinance banning installation of natural gas burning space-heating

equipment in Sioux Falls residences and business places.

The affirmative votes were cast by Mayor C. M. Whitfield and Commissioner George W. Elmen.

Assuring the commissioners that the gas distributors are taking "full responsibility," E. C. Deane, district manager for the Central Electric & Gas Company, said that as soon as the company can sell another dollar's worth of gas, "we'll be begging you to repeal this ordinance. After all, our business is selling gas."

The city commission early last month approved a lower rate schedule for the gas company which will amount to an annual reduction of approximately $104,000 for Sioux Falls consumers.

Washington

Canada Gets Local Power

C. T. HURD, manager of the Cowlitz Public Utility District, recently confirmed reports the district is selling power to the British Columbia Electric Railway Company at Vancouver, British Columbia.

"The district is furnishing steam-generated power for a maximum of 30,000 kilowatt hours per hour for both peaking energy and otherwise," Hurd reported. The power is being supplied over the Bonneville Power Administration system through an interconnection originating at Arlington, Washington, and terminating at the Canadian border, he added.

The British Columbia Electric Railway Company is a member of the Northwest power pool and "their needs are generally considered by Northwest operators as common to those of this region," Hurd continued.

Deliveries of local power began in October and have been continued since, he said. The arrangement is to continue until next year when a hydroelectric generation plant is completed in British Columbia and power is available from that source.

Users Urged to Cut Peak Demands

BECAUSE of the "extremely tight" power situation, the Puget Sound Power & Light Company has asked industrial users and holders of limited contracts to curtail their use of electricity during the daily peak period of 4 to 7 PM, L. E. Karrer, executive vice president, announced recently.

Karrer said a system peak of 513,510 kilowatts was reached November 12th, some 28,000 kilowatts above the 1947 peak, but that a new high was to be expected before Christmas.

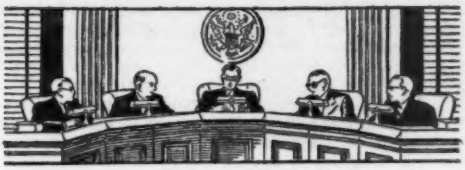
The western division of the Pacific Northwest power pool is obtaining between 90,000 and 100,000 kilowatts from eastern division sources, in Montana and Utah, Karrer disclosed. He said this fact, coupled with use of all possible steam power, including plants of the lumber industry, and the "excellent coöperation" of power users made it possible for the western division of the power pool to meet present demands.

Ordered to Improve Service

THE Spokane City Lines, Inc., was authorized to charge a straight 10-cent cash fare in an order issued last month by Paul Revelle, director of the state department of transportation.

Director Revelle ordered that the company must at once proceed to improve its service, and specifically directed five definite improvements which he said originated from testimony given at a recent hearing in Spokane by patrons of the busses and who represent all walks of life and all areas of the city.

The new cash fare was put into effect on November 27th. Revelle's order pointed out that the 8½-cent fare inaugurated in February, 1947, had not enabled the company to keep abreast of the current increase in operating costs.



The Latest Utility Rulings

Emergency Rate Increase Allowed Telephone Company

THE New Hampshire commission authorized an emergency telephone rate increase where the situation of the company apparently necessitated an increase but where proper permanent rates could be determined only after exhaustive study.

The company serves three New England states in which it has applied for increases. The New Hampshire commission thought that the best way of reaching a proper rate would be for the three commissions to conduct a joint investigation of the entire company rather than to attempt to allocate revenues and expenses on a statewide basis.

A comparison of proposed intrastate toll rates and existing interstate toll rates indicated that intrastate calls would cost more than interstate calls involving greater distances. The commission, in disapproving proposed rates, said:

> The specific increases, as proposed, would throw these rates further in excess of the interstate rates, violating long- and short-haul theories of rate making, the rate for the shorter distance being higher than for a longer distance over the same line. Here again, the justification for a change is that the company needs more revenue. However, until such time as a thorough cost study can be made, we do not look with favor upon any changes in these basic rates.

In a dissenting opinion Commissioner Thornton urged that no increase be allowed because the utility had not successfully carried its burden of proof, and had left many vital questions unanswered. He said:

> . . . these questions include a properly determined rate base, depreciation accounting and practices, purchases and transfers of equipment from affiliates, the service contract with the American Telephone and Telegraph Company, separation of property, revenues and expenses, to which may be added the questions of prudent investment, the efficient and economical management of the company's affairs, and, what appears to be the most important question, the comparison of dial to manual equipment. I am of the opinion that when the correct answers to these questions are known, a far different conclusion will be reached as to the company's profit or loss for its New Hampshire operations.

Re New England Teleph. & Teleg. Co. (D-R2610, Order 5141).

Temporary Rate Increase Denied When Emergency Not Shown

A GAS company's application for an emergency rate increase was denied by the Wisconsin commission. The company based its application on the fact that its return was only 2.73 per cent, expenses and wages were increasing, and low revenues made it impossible to refinance bonds and preferred stock.

The commission ruled that the utility had not successfully carried its burden of proving the need for the emergency rate increase and made this statement:

It is earning approximately half the return it claims it is entitled to earn; its earnings are sufficient to permit dividends on common stock; it has failed to show that it cannot refinance in the present investment market; it has failed to show that even if it could not refinance in the present investment market, that such failure would impair its ability to continue the rendition of adequate service to the public.

If the commission were to grant the temporary relief as requested in this case, it would in effect adopt a policy whereby, upon a showing of any utility that its rate of return upon a rate base, such as the one here assumed, is less than 6 per cent, temporary rate increases would have to be given. Temporary rate increases should be reserved for those cases where there is an emergency or where there is some peculiar and temporary condition which requires temporary action in order for any action to be effective at all. The commission does not regard a profit of less than 6 per cent on the rate base here assumed as constituting, *per se*, an emergency situation.

Re Milwaukee Gas Light Co. (2-U-2440).

Reorganization of Coöperative into Utility Corporation Approved

OBJECTIONS of competing power companies to a plan providing for the reorganization of a coöperative into a public utility corporation were dismissed by the supreme court of Missouri.

The court agreed with the objectors that the mere statement in the corporate charter that it was incorporated under the General Business and Corporation Act did not control its status, as the court was free to determine from its objects and powers the corporation's true legal status.

However, the court overruled the principal objection to the coöperative's taking on the legal status of a corporation; namely, that the corporate charter contained restrictions on the transfer of stock similar to those usually appearing in the charter of coöperatives.

The court ruled that under present statutes a business corporation, while not empowered to completely restrain the transfer of stock, has power to place some restriction on its transferability. It ruled further that the fact that the corporation voluntarily adopted some of the restrictions on stock transfer which are compulsory with coöperatives would in no way affect their validity provided they were not inconsistent with any statute defining the powers of corporations. *State at Inf. of Huffman et al. v. Sho-Me Power Coöperative, 204 SW2d 276.*

State Consent Not Essential to Holding Company Recapitalization Plan

A FEDERAL District Court granted an order approving and enforcing an amended reorganization plan submitted by Kings County Lighting Company, an operating subsidiary of Long Island Lighting Company. A controversy had developed between the Securities and Exchange Commission and the New York commission.

The New York commission strongly objected to the allocation of new common stock to the holders of old common stock. The final plan provided for a distribution of 7½ per cent of new common stock to the old holders, and the Securities and Exchange Commission approved it.

The difference of opinion between the two commissions was explained by the fact that the Federal commission appraised common stock holdings on a potential earnings basis while the New York commission used an asset basis.

The plan provided for state commission approval. Since this was refused, the New York commission urged that

the plan could not be approved by the court but that it must be sent back to the Federal commission for further action. The court refused to do this because it was clear that the state commission would never approve the plan unless the Federal commission radically revised its method of valuing common stock.

It was argued that the Federal commission has no power to approve the recapitalization of a utility operating company unless the plan complies with state law. The court, observing that such veto power could frustrate action by the Federal commission under § 11(e) of the Holding Company Act, said:

> At the risk of wearisome repetition, I point out again that if the state commission has the veto power which it asserts under § 7(g) of the statute, then here the Securities and Exchange Commission must discard its potential earning basis for allocation of the common stock, and must accept the standard (asset value) which the state authority considers more nearly equitable and feasible. Unless the Federal commission yields, the voting power of Kings, a subsidiary of a public utility holding company, can never be redistributed according to the mandate of § 11(e) of the statute. . . . I do decide that when irreconcilable conflict arises between the state and Federal authority concerning how stock is to be reallocated, then, despite the provisions of § 7(g), the Federal statute overrides state statutes which clash with it, assuming that the Federal statute is constitutional.

Even though operations of the holding company and its subsidiary were predominantly intrastate in character, the court decided they were properly subject to jurisdiction of the Securities and Exchange Commission and to the provisions of the Holding Company Act, since the securities of the subsidiary were distributed widely among investors in many states.

The court also decided that construction of the Holding Company Act so as to authorize Federal regulation of the utility company did not violate the Tenth Amendment of the Federal Constitution. Furthermore, it was held, construction of the act as not requiring state consent to alterations in the capital structure of a corporation which the state had created was not an unconstitutional invasion of the plenary jurisdiction of the state over such corporation. *Re Kings County Lighting Co. 72 F Supp 767.*

Fuel Clause Gets Commission Sanction

A GAS company facing a financial emergency because of deficits in utility operations was authorized by the North Carolina commission to adopt a fuel clause.

This was without a formal hearing but subject to hearing and review upon complaint.

The company showed that it was paying 9 cents a gallon for propane gas which cost only 7½ cents when the commission approved the present schedule.

Rates under the fuel clause are to be based on the cost of propane gas at 7½ cents a gallon. For each one-half cent increase above that price the charges are to be increased 7 cents a thousand cubic feet. Likewise, for each one-half cent decrease in cost per gallon below 7½ cents rates are to be decreased 7 cents a thousand cubic feet. *Re Piedmont Gas Co. (Docket No. 3875).*

Damages for Forced Relocation of Equipment

THE petition of a telephone company for an order directing a county to reimburse it for damages sustained in moving telephone facilities, after a county crossing improvement made relocation necessary, was denied by the Pennsylvania commission.

The commission called attention to

the fact that its order authorizing the improvement specifically provided that any relocation of facilities which might be required "be made by the public service company at its own expense and in such a manner as will not interfere with the construction of the improvement." *Department of Highways v. Baltimore & Ohio R. Co. (Complaint Docket No. 11133).*

Commission Assumes Jurisdiction over City Gas Rate

IN authorizing a gas and electric company to increase rates, the Michigan commission ruled against several cities which opposed any commission action on jurisdictional grounds.

A resolution of the council of one of the cities was introduced to show that some contract or franchise existed. The commission pointed out that the resolution specifically recognized the over-all jurisdiction of the commission and provided that a copy of the proposed rates be sent to the commission for confirmation.

The commission summarized its opinion with this statement:

> It is apparent from the language of this resolution that the jurisdiction of the commission was recognized, and we find that no valid franchise or contract exists with reference to the fixing of rates which divests this commission of jurisdiction.

Re Michigan Gas & Electric Co. (D-3616-47.1).

Service Denial at Police Request Arbitrary and Unjustified

A TELEPHONE company was ordered by the New York Supreme Court to resume service to a subscriber from whose place of business it had removed its equipment at the request of police. It found that the unlawful action could in no way be imputed to the subscriber.

The subscriber was a shoe manufacturer and had received telephone service for forty years. The police, after arresting an employee for bookmaking over the shoe company's telephone, requested the utility to discontinue service. The utility complied with this request.

The court characterized the action as arbitrary and unjustified. It quoted a New York Court of Appeals decision which scored the utility's practice of automatically complying with police requests. The decision emphasized the exclusive authority of the utility over service questions.

The court noted that no act on the part of the subscriber or with his knowledge had been assailed, and concluded:

> . . . continuous uninterrupted service for forty years should not be terminated because of an isolated, unauthorized act of an employee.

Whyte v. New York Telephone Co. 73 NYS2d 138.

Wholesale Gas Company Must Be Heard before New Connection Is Approved

THE Federal Power Commission approved the sale by Interstate Gas Company to Cities Service Gas Company of facilities operated under commission authority. It denied authority requested by the purchaser to construct and operate a connection with its main transmission pipe line.

Panhandle Eastern Pipe Line Company was supplying gas for Interstate to distribute in two of the towns involved in the property transfer.

Panhandle Eastern Pipe Line, however, was not a party to the proceeding and, in response to an inquiry by the secretary of the commission, had telegraphed that it could not join in the application for authority.

A letter from Panhandle indicating that it would give notice of the discontinuance of gas supply after construction of a new line was not viewed as sufficient to justify approval. The commission would not go into the question of contract liability between Panhandle and Interstate.

Termination of Panhandle's service was said not to be an issue at the time. The commission, in an opinion of its examiner (which became final), announced this ruling:

> This record contains no action by Panhandle other than its telegram informing the commission that it has elected not to become a party to this proceeding. Such election does not constitute any kind of estoppel or forfeiture of any of its rights under the act. It certainly does not constitute the action required under § 7(b) of the act, which prohibits abandonment of natural gas service by any natural gas company by means of any jurisdictional facilities, "without the permission and approval of the commission first had and obtained, after due hearing." No such application is before the commission in this proceeding.

Re Interstate Gas Co. et al. (Docket No. G-908).

Free Intercity Phone Service Denied

THE Missouri commission dismissed the complaint of telephone subscribers against an exchange rate schedule after finding that the company's return from the exchange involved was only 1.98 per cent of its claimed value.

The subscribers conceded that service was satisfactory but objected to the fact that at several other exchanges subscribers could make intercity calls without payment of toll charges.

The commission traced the historical development of this free service and pointed out the possibilities of unfairness if it were to be extended. The commission said:

> It is not fair to ask the general subscribers of an exchange who do not use toll service to pay rates necessary to give to the defendant company a fair return and pay in addition to that an amount sufficient to cover the cost of toll service rendered on the intercity line without cost. Proper rate making requires that each class of service shall bear the proper charges due in order that the rate structure may be fair to all patrons of the exchange.

Dr. M. H. Moore et al. v. United Telephone Co. (Case No. 9721).

Common Carrier's Objection to Truck Competition Overruled

A COMMON carrier's objection to the grant of a private carrier permit to a trucking company, desiring to serve Colorado ranchers, was denied by the state commission.

The common carrier relied on state statutes designed to protect the monopoly of a common carrier whose service is satisfactory. The trucking company and its witnesses pointed out that many ranchers in the area which the carrier had undertaken to serve were receiving no service whatever.

The commission, in making its determination, quoted the relevant statute:

> If the commission shall be of the opinion that the proposed operation of any such private carrier will impair the efficient public service of any authorized motor vehicle common carrier or carriers, then adequately serving the same territory over the same general highway route or routes, permit shall not be granted.

But it pointed out that, since the existing service was not efficient or adequate, the statute did not control its decision in the matter. *Re Winscom (Application No. 8223-PP, Decision No. 28999).*

Unauthorized Air Service Halted by Court

THE Federal District Court of Hawaii granted an air-line company's application for an injunction against the unauthorized operations of a competitor. It refused to dismiss the proceeding on jurisdictional grounds.

The competitor had obtained authority to operate as an irregular air carrier but had commenced engaging in regularly scheduled flights without commission approval.

The principal objection to an injunction was that the company had not exhausted administrative remedies. The Civil Aeronautics Act, the court stated in dismissing the objection, gives a party in interest the right of either administrative or judicial relief in his election. Consequently a court would not have to refrain from acting until the administrative remedies of a party in interest are exhausted. *Hawaiian Airlines, Ltd. v. Trans-Pacific Airlines, Ltd. 73 F Supp 68.*

Other Important Rulings

THE supreme court of Washington held that a public utility district's acquisition of a privately owned distribution system is for a higher public use than that to which the property is being devoted and justifies condemnation of those properties. *State ex rel. Northwestern Electric Co. v. Superior Court in and for Clark County, 183 P2d 802.*

The Securities and Exchange Commission denied a motion by a preferred stockholder of a holding company to hold up a plan under § 11(e) of the Holding Company Act until a vote of preferred stockholders could be obtained on the question of whether the company should become an investment company, since it did not appear that the company would take any substantial steps toward transforming its business into that of an investment company until the preferred stock was retired. *Re United Corp. (File No. 54-158, Release No. 7803).*

The Securities and Exchange Commission, in approving a plan for recapitalization of a subsidiary operating company, found that the company's voting power was unfairly and inequitably distributed in contravention of § 11(b)(2) of the Holding Company Act, where the common stock, which had no interest in the book assets of the company and no present interest in its earnings, had 46.9 per cent of the voting power. *Re Eastern Minnesota Power Corp. (File Nos. 59-70, 54-138, 54-48, Release No. 7822).*

The Colorado commission, in a telephone rate case, held that if an increase in toll charges alone will meet revenue needs it would seem to be desirable to increase toll charges, rather than exchange rates. *Re Mountain States Teleph. & Teleg. Co. (Investigation and Suspension Docket No. 277, Decision No. 29166).*

The Wisconsin commission ruled that it is discriminatory to include fire protection costs in a water company's general service rate. *Re City of Amery (2-U-2452).*

NOTE—The cases above referred to, where decided by courts or regulatory commissions, will be published in full or abstracted in *Public Utilities Reports.*

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Points of Special Interest

Titles and Index

TITLES

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MASSACHUSETTS DEPARTMENT OF PUBLIC UTILITIES

A. W. Perry, Incorporated

v.

Boston Edison Company

D.P.U. 7697
October 31, 1947

PETITION *by company owning and managing real estate properties for supply of electricity from utility company; denied.*

Discrimination, § 64 — Landlords — Rates on resale of current.

1. The resale of electricity by the owner and manager of real estate properties to some users for less than they would pay at the appropriate rates filed by the utility company from which the current is purchased constitutes discrimination, p. 164.

Service, § 15 — Powers of Commission.

2. The Department of Public Utilities has power upon adequate showing to refuse an order requiring an electric company to supply service, p. 164.

Monopoly and competition, § 30 — What constitutes competition — Resale of electricity.

3. A corporation owning and managing real estate competes with an electric utility company when it purchases current at wholesale and sells it to tenants and others at retail, p. 164.

Public utilities, § 73 — Electric company — Status of submetering company.

4. A real estate company which purchases electricity at wholesale and retails it to tenants and others within the same city block as one of its buildings is acting as an electric company and is subject to the public utility statutes, p. 165.

Public utilities, § 48 — Tests of status — Use of highways.

5. The fact that a real estate company purchasing electricity at wholesale and retailing it does not use the highways in the distribution of current does not prevent its being classified as an electric company subject to public utility laws, p. 165.

Service, § 170 — Electric supply for resale.

6. An electric utility company should not be required to supply electricity at wholesale to a real estate company for resale to tenants and others when the real estate company has not complied with statutes relating to electric companies and, in fact, contends that it is not subject to the jurisdiction of the Department of Public Utilities; to compel the utility to furnish current for purposes of resale would be equivalent to a condonation, if not approval, of the type of business carried on by the real estate company, p. 165.

Service, § 170 — Submetering — Electricity.

Statement by Massachusetts Department of Public Utilities that it does not

seem that the difference between direct and alternating current alone furnishes a sound basis for the refusal of an electric company to furnish alternating current to a real estate company for resale if both types of current are available, p. 163.

Service, § 170 — Electricity for submetering — Resale to tenants.

Statement by Massachusetts Department of Public Utilities that the contractual status of the ultimate consumer should not make any difference in a decision on the question whether an electric utility should be required to sell current at wholesale to a real estate company which resells to tenants, p. 163.

Certificates of convenience and necessity, § 48 — When required — Submetering.

Statement by Massachusetts Department of Public Utilities that a real estate company has no more right to establish a private plant and sell electricity to its customers, without subjecting itself to Commission jurisdiction and obtaining the necessary authority, than it has to buy current from an electric utility company for the same purpose, although there is no law against the company installing a plant to supply current for its own use, p. 166.

(MARR, Commissioner, concurs in separate opinion.)

APPEARANCES: Richard J. Cotter, and Richard J. Walsh, for petitioner; F. M. Ives, for Boston Edison Company; Clarence Roberts, for Boston Real Estate Board; David H. Stuart, Assistant Attorney General for Commonwealth of Massachusetts.

By the DEPARTMENT: The complainant in this matter, A. W. Perry, Inc. (hereinafter referred to as Perry), is a corporation which, with its predecessors in interest, has been in the business of owning and managing real estate properties in the city of Boston since 1887. Very early in its history, it installed electric generators in its buildings, apparently selling surplus current. In this connection, it obtained a limited franchise from the city of Boston for the use of the streets. In 1903, it sold this franchise to the defendant, Boston Edison Company (hereinafter referred to as Edison). It proceeded thereafter to buy power from Edison both for its own purposes and to resell that power to its tenants. This practice has continued up to the present time.

In addition to selling this power to its tenants, Perry (or its predecessors in title) has also for many years resold substantial amounts of Edison's power to other consumers who are not tenants of Perry's buildings, but who are located within the same city block as one of Perry's buildings. Perry makes a profit on this resale, due to the fact that it buys in wholesale blocks at low rates and resells at retail.

In the early stages of the industry, while this practice was developing, all of the current furnished was direct current. In fact the production and distribution plant in downtown Boston, which was one of the first areas to use electricity widely, was originally designed for this type of current exclusively. It thereafter became apparent that this distributing system should be designed to accommodate alternating current. Edison determined to accomplish this change grad-

ually, instead of simultaneously in substantial areas, as was done in some other cities.

In the meantime, Edison had began to consider the problem of resale of electricity posed by such middleman activities as those of Perry. It determined upon a policy of refusing to extend this practice and particularly to refuse to furnish alternating current for resale to persons other than tenants of the purchaser. This policy was carried into effect at least in part, by tariff effective March 1, 1946, Edison's rate D-1, which was stated to be available "for direct current service for any use, and for alternating current service for any use on the premises specified in the agreement for service." Perry's service is furnished under this rate schedule.

In 1945, Perry found itself under a very considerable pressure, due in large measure to the invention and extensive use of fluorescent or luminescent lighting, to install alternating current for the use of its tenants and others to whom it resold current. Pursuant to its policy of which warning had been given to Perry or its grantor in 1930 and again in 1937, and in accordance with its interpretation of its filed tariff, Edison has refused to supply alternating current unless Perry agrees not to resell except to its tenants. This petition is brought by Perry to compel Edison to furnish alternating current without such restriction. Extended hearings were held developing the facts, and we have been furnished with very able briefs by counsel on both sides.

It does not seem to us that the difference between direct and alternating current alone furnishes a sound basis for the refusal of Edison to furnish this service, if both types of current are available. If Perry is entitled to be furnished with any service at all, it is entitled to be furnished with alternating current on the same basis as is any other customer of Edison. Nor do we believe that the contractual status of the ultimate consumer should make any difference in our decision. We fail to see why the fact that the consumer rents premises from Perry makes him any less a consumer of electric current or any less entitled to the protection of the law and of this Department. We say this with full realization of the ultimate logical conclusions to which this argument may be carried.

Edison has a gross yearly revenue of about $50,000,000. Its income balance transferable to profit and loss as of December 31, 1946, was $6,240,-025.70, according to its annual return filed as of that date with this Department. It appears that there are in Boston a total of some 6,000 retail customers who are served through privately owned meters. Edison estimates that it has some 170 customers doing a business similar to that done by Perry, as to 132 of which it is able to make fairly accurate estimates as to the scope of the business. These 132 customers now produce a revenue to Edison, under resale practices, of some $1,304,000, resulting from the sale of 53,603,400 kilowatt hours in 1946. Upon an analysis of these accounts, making the best possible assumption as to distribution as between types of subuse, it appears that Edison would receive a gross of somewhere near $2,332,200 for this current if it sold such current direct to

the consumers at the rates applicable for each consumer's respective type and amount of use. Stripped down to their bald framework, these figures mean that 132 middlemen in the city of Boston are dividing up a profit derived from electricity which they do not manufacture or distribute (except for relatively short distances) and which is made possible solely by Edison's rate structure, in the amount of more than $1,000,000 per year. This figure is only about 2 per cent of Edison's gross income, but it is 15 per cent or more of its net. And the additional expense to Edison in handling the new accounts would not be unduly large: Perry handles the accounts at present at a cost of about 10 to 15 per cent of his gross. Perry is, it appears, one of Edison's largest wholesale customers. It furnishes current at retail to 700 or more customers, through 1,200 submeters. It paid Edison $212,000 in 1946 for all of its current. Edison would have received $370,000 for the same service if it had sold direct, or additional gross revenue of $157,600.

This Department would consider a request of Edison for $1,000,000 additional gross revenue per year as a major item on its calendar. Edison's president frankly stated that if Edison had the income these middlemen are getting, it might help avoid increased rates, if it did not actually result in decreased rates to the general public. In fact, the more deeply and dispassionately the record is studied, the more doubt appears as to the economic or legal justification of this practice.

[1] Perry charges practically all of his customers at the appropriate Edison rates as filed with this Department. But its president admitted that some cases do exist where the consumer receives current from Perry for less than he would otherwise have to pay. We believe this constitutes discrimination. And what assurance is there that Perry will not charge what it pleases for light and power, regardless of Edison's rates?

Another unfortunate result of Perry's relationship to Edison came to light when it developed that in at least one case still another middleman had appeared to participate in the profits derived from this resale of current. As was pointed out in Sixty-Seven South Munn v. Public Utility Comrs. 106 NJL 45, PUR1929E 616, 147 Atl 735, cert den (1931) 283 US 828, 75 L ed 1441, 51 S Ct 352, and as Edison's witnesses testified, there is nothing to prevent an extension of this practice of resale to the point where each business block in the city would be furnished current by its own retailer which might so adversely affect Edison's revenues as to require revision of its rates to the detriment of its ordinary customers. And such retailers would, if the complainant's contention is correct, be subject to no control as to prices, practices, or service. We are not prepared to arrive at this conclusion unless we are required to do so as a matter of law.

[2, 3] The jurisdiction of this Department to order service to be supplied is granted by §§ 92 and 92A of General Laws (Ter. Ed.) Chap 164. Section 92 is intended to protect the individual consumer and § 92A applies to sales in bulk, i.e., to other electric companies. (See § 1 of Chap 164.) Neither section is mandatory,

leaving it within the power of the Department to refuse such order upon adequate showing. It is well settled that such an order will not issue where the purchaser is a competitor of the seller (Brand v. Water Comrs. of Billerica [1922] 242 Mass 223, 136 NE 389; People ex rel. New York Edison Co. v. Public Service Commission, 191 App Div 237, PUR 1920C 526, 181 NYS 259, aff'd [1920] 230 NY 574, 130 NE 899), and we find and hold that Perry is competing with Edison in the distribution and sale of electricity within the city of Boston. Moreover, § 92A of the statute specifically provides that "such order shall not be made where it appears that compliance therewith would result in permanent financial loss to . . . the corporation." We believe, and so find, that the issuance of such order in this case would result in permanent financial loss to Edison.

[4, 5] Furthermore, in § 1 of Chap 164 of the General Laws (Ter Ed) an "electric company" is defined as "a corporation organized under the laws of the commonwealth for the purpose of making by means of water power, steam power, or otherwise and selling, *or distributing and selling,* electricity. . . ." By § 76 of the same chapter, this Department is given the broadest sort of supervisory power over all electric companies. Mr. Perry, president of the company, was asked: "And is it fair to say that you're in the business of selling and distributing electricity?" His answer, which was correct and inescapable, was: "Yes, sir, I should say it was." We find and hold that complainant is acting as an electric company under the laws of this commonwealth in reselling the current supplied to it by Edison and is therefore subject to all of the provisions of Chap 164 and of the other applicable statutes.

In our opinion, it makes little difference in arriving at this conclusion whether or not Perry uses the highways in his distribution of current. Public utility businesses are: "Those which are carried on under the authority of a public grant of privileges which either expressly or impliedly imposes the affirmative duty of rendering a public service demanded by any member of the public." Wolff Packing Co. v. Court of Industrial Relations, 262 US 522, 535, 67 L ed 1103, PUR 1923D 746, 750, 43 S Ct 630, 27 ALR 1280. Among these privileges is the right to use the highways. But there are other privileges as well, one of which is the privilege of carrying on business without competition. And while it is doubtless true, as pointed out in the Wolff Packing Co. Case, *supra,* that the legislative characterization of a given business as a public utility is not necessarily final, still, where the legislature has included Perry within the clear terms of the statute, we feel impelled to follow these terms until we are otherwise instructed by the courts.

[6] Perry has complied with none of the calls of the statutes relating to electric companies. It files no tariffs nor annual reports with this Department. Its security issues have not been submitted for approval nor does it hold any franchise rights. Its counsel contended at the instant hearing that it is not subject to our jurisdiction. To compel Edison to furnish current to Perry for purposes of resale would, in our opinion, be equivalent to

a condonation, if not approval, of the type of business which Perry is carrying on. This we decline to do.

We do not feel that we are, by this decision, jeopardizing Edison's revenues through encouraging the installation of private plants to serve Perry's customers. If our reasoning is accurate on the facts before us, Perry has no more right to establish a private plant and sell to its customers without subjecting itself to our jurisdiction and obtaining the necessary authority than it has to buy current from Edison for the same purpose. There is no law against Perry's installing a plant to supply current for its own use. In our opinion, there is a law against Perry's manufacturing such current for sale to others.

There may possibly be little essential difference between a tariff provision duly filed with the Department and a reasonable regulation adopted by the company without formal filing. However, since the adoption of a policy such as appears in the instant case results in refusal by the utility to furnish service to applicants of a certain description, we suggest that Edison amend its filed tariffs in this respect rather than to rely upon unpublished rules.

Our conclusion in this matter agrees with that of the New York Commission which was faced in 1939 with an almost identical situation. See Re Central Hudson Gas & E. Corp. (NY 1939) 30 PUR NS 257. It agrees also with the determination of various regulatory bodies involving resale of telephone service. See 1015 Chestnut Street Corp. v. Bell Teleph. Co. (Pa) PUR1931A 19; Gelsam Realty Co. v. New York Teleph. Co. (NY) PUR 1929A 224; Williams & Calmer v. Southwestern Bell Teleph. Co. (Mo 1947) 70 PUR NS 35. It has very substantial support in other jurisdictions in many cases where administrative bodies and the courts have upheld the reasonableness of rules and regulations of utilities forbidding the resale of electricity. Florida Power & Light Co. v. State ex rel. Malcolm, 107 Fla 317, PUR1933E 157, 144 So 657; Sixty-Seven South Munn v. Public Utility Comrs. 106 NJL 45, PUR1929E 616, 147 Atl 735, cert den (1931) 283 US 828, 75 L ed 1441, 51 S Ct 352; Re Potomac Electric Power Co. (DC) PUR1929B 600; Karrick v. Potomac Electric Power Co. (DC Sup Ct) PUR1932C 40; Lewis v. Potomac Electric Power Co. 62 App DC 63, PUR1933C 114, 64 F2d 701; Re Rates and Rate Structures of Corporations (NY) PUR 1931C 337; Holmes Electric Co. v. Carolina Power & Light Co. (1929) 197 NC 766, 150 SE 621; Re Beloit Water, Gas & E. Co. (Wis) PUR 1922E 133.

And we find it very difficult to avoid the application to the facts before us of the language of the supreme judicial court in Brand v. Water Comrs. of Billerica (1922) 242 Mass 223, 228, 136 NE 389, where the court said:

"An even more conclusive answer to the petitioner's claim is that the respondents were under no legal obligation to supply the land company, apart from the existing contract voluntarily made by the parties. By the general character of their customary undertaking, the duty of service, and accordingly the duty of equal service, if any, is owed by the respondents only to the occupiers of premises."

Both Edison and Perry have filed requests for rulings and have waived by stipulation the limitations of § 5 of Chap 25 of the General Laws (Ter Ed.). Perry's requests Nos. 1 and 4 are granted, and its requests Nos. 2, 3, 5, 6, 7, and 8 are denied. Edison's requests Nos. 4, 5, 6, 7, and 8 are granted, and its requests Nos. 1, 2, and 3 are denied.

After due notice and a public hearing and due consideration being had, it is hereby

Ordered: That the petition of A. W. Perry, Inc. as amended be and the same hereby is denied.

MARR, Commissioner, concurring: Although I concur in the result of the order of the Department that the Perry Company petition be dismissed, I do not subscribe to all of the findings and rulings of my associates on the Commission and believe that in fairness to all concerned I should state wherein I am not in accord.

The Edison Company in its refusal to furnish Perry Company with alternating current for resale to persons other than its tenants has, in my opinion, used sound business judgment in the best interests of the public. I believe that this is sufficient ground for its action. That Edison as an electric company benefits or will benefit more is undoubtedly to the public's advantage as clearly presented in the Department's order. The company's stand has been taken with due consideration of such factors as financial, engineering, and construction problems peculiar to this electric business.

The resale field is one in which the petitioner especially and others have operated profitably for many years, the petitioner supplying his tenants primarily and also certain other buildings in the same blocks. Perry's activities have been principally the ownership and management of business properties accommodating many tenants. Electric current both for lighting and manufacturing has been in the main supplied incidental to rental, the sums derived by Perry from resales of electric current being a small part of total income from realty operations. Our statutes do not expressly cover this situation. The Perry Company admittedly was not organized to manufacture and distribute electricity. The Edison Company is so organized. Express provisions are found in the statutes for certain sales in bulk, G.L. (Ter. Ed.) Chap 164, § 92A. Even though petitioner does not come within the terms of this section (§ 92A), it cannot, of course, do business with or in competition with Edison in a way to cause that public service corporation permanent financial loss. Section 92 of said Chap 164 is sufficiently broad to cover the present situation.

I do not wholly concur in the rulings of the majority of the Commissioners upon the "Petitioner's Requests for Rulings." I am of the opinion that Nos. 2, 3, 4, 5, 6, and 7, which were denied, should as framed be allowed because the words "may find" connote "would be warranted in finding." I would, however, as a matter of fact, find in the negative, i.e., not so find upon each of these Requests except No. 6 as to giving Edison permission "to withdraw from rendering that service (resale) by refusal to supply alternating current at the locations described in the evidence," and except as to No. 7, for I find that "the

interest of the public" may be served by such permission from the Department as specified in both Requests Nos. 6 and 7. As to No. 8, I find that the Department has the power to require the respondent to supply the petitioner with alternating current or to refuse such service, and so I would allow Request No. 8.

The petitioner's resale business may be termed ancillary to its real estate operations. This reselling of electrical current is a unique service long carried on openly and apparently without any serious question as to its propriety. The finding of the Department (page 165 of the order) that the Perry Company is an electrical company (de facto), having in mind the definition under § 1 of Chap 164, with the implications drawn from that ruling, puts the matter in a new light. A new status is created or established for the resellers of electric current described in this case by this legal construction.

Without going so far as the order in my own conclusions, I nevertheless have reached the same main conclusion to deny relief and have based it upon the respondent's right and duty to operate its business wisely in the public interest rather than upon conclusions as to the legal aspects of resale of electric current. Their determination has not seemed to me absolutely essential to a proper disposition of the petition.

FEDERAL COMMUNICATIONS COMMISSION

Re Western Union Telegraph Company

Docket No. 8477
October 23, 1947

INVESTIGATION *of proposed elimination of differential in telegraph rates in favor of United States Government and question of priority and liability on government messages; rate differential eliminated and rulings made on priority and liability.*

Rates, § 186 — Burden of proof — Rate increase — Elimination of discrimination.

1. Little weight should be given to the factor of burden of proof in passing on newly filed telegraph rate schedules eliminating a differential in favor of United States Government messages, following a statutory change to give the Commission authority over the elimination of such differentials; the decision should not turn on who has the burden of proof but on the question as to whether there is a sound basis for a differential, p. 179.

Rates, § 529 — Telegraph — Government as customer.

2. The United States Government cannot be regarded as one customer or user of telegraph service, for the purpose of rate making, since the government is made up of many different kinds of telegraph users with varying demands and needs for telegraph service throughout the country, for which many different bills are rendered, p. 179.

Discrimination, § 239 — Basis for elimination — Telegraph rate differential — Government traffic.

3. Action on the elimination of a telegraph rate differential in favor of the United States Government should not be deferred, for the extended period of time that would be required to complete a proper cost study, when there is a relatively small proportion of government traffic and characteristics of government traffic do not sufficiently indicate that it costs less to handle such traffic, as compared with a substantial portion of commercial traffic, p. 179.

Discrimination, § 155 — Telegraph rates — Differential favoring government.

4. Rates for United States Government domestic telegraph messages should be at the same level as those of commercial users, instead of being at a lower level, when it appears that there is no such difference between government messages and those of various commercial users as would justify a rate differential, p. 179.

Discrimination, § 19 — Method of removal — Telegraph rate increase.

5. A telegraph rate differential in favor of the United States Government, found to be unjustified, should be removed by raising the government rates to the level of commercial rates when government traffic is a very small part of total traffic, since it would not be reasonable to adjust a nationwide rate schedule in order to accommodate a relatively small amount of traffic, particularly when the resulting total return to the company after an increase in rates would still be within the limits of reasonableness, p. 179.

Telegraph — Liability for mishandling messages — Government use.

6. A telegraph company, in the handling of United States Government telegraph messages, should be subject to the same liability as in the case of other messages, in the absence of any showing of special circumstances, p. 183.

Discrimination, § 155 — Telegraph service — Government priority.

7. Priority of United States Government domestic telegraph messages should be eliminated, except that priority should be accorded any message for which priority is specifically requested by the sender; but the telegraph company should preserve at least equal priority for United States Government messages with that for messages of other governments, p. 183.

Discrimination, § 8 — Jurisdiction of Federal Communications — Telegraph rates.

Discussion of legislative background of proceeding before Federal Communications Commission to remove telegraph rate differential in favor of United States Government following repeal of Post Roads Act of 1866, which restricted Commission authority, p. 173.

(WALKER and DURR, Commissioners, dissent.)

APPEARANCES: William Wendt, for The Western Union Telegraph Company; Edward J. Hickey, Jr., and James E. Kilday, on behalf of the Executive Departments and Agencies of the United States Government, the House of Representatives, and the Administrative Office of the United States courts; G. B. Margraf and James E. Greeley, for RCA Communications, Inc.; Harold J. Cohen and Herbert Sharfman, for the Federal Communications Commission.

History of the Proceeding

By the COMMISSION: On July 17 and 21, 1947, The Western Union Telegraph Company (hereinafter referred to as "Western Union") filed with this Commission new tariff schedules bearing the proposed effective date of August 25, 1947, which would have the effect of generally eliminating the existing differential between the charges for commercial telegraph messages and those for certain "domestic" United States Government telegraph messages, that is, interstate messages within the continental United States, and messages between the continental United States, on the one hand, and Alaska, Canada, Mexico, Newfoundland, Labrador, and Miquelon, on the other hand.[1] Under these new schedules, priority now provided for such United States Government telegraph messages would be eliminated.

Reciting that it was desirable in the public interest that the various United States Government departments and agencies which are directly affected thereby as communications users be given an opportunity to be heard with respect to the proposed increased charges and elimination of priority, the Commission, on July 24, 1947, ordered a hearing concerning the lawfulness of the charges, classifications, regulations, and practices set forth in the new tariff schedules; suspended the operation of such new tariff schedules until November 25, 1947, unless otherwise ordered; and instituted an investigation into the lawfulness of Western Union's charges, classifications, regulations, practices, and services for and in connection with United States Government "domestic" telegraph communications, as above defined. The order provided further that without in any way limiting the scope of the investigation, it should include inquiry into the following matters with respect to United States Government "domestic" telegraph communications:

(1) The lawfulness, under the Communications Act of 1934, as amended, of the charges, classifications, regulations, and practices proposed by Western Union in the suspended tariff schedules;

(2) Whether under § 201(b) of the Communications Act of 1934, as amended, 47 USCA § 201(b), there shall be established a United States Government class or classes of communications, with charges and regulations therefor different from those for corresponding nongovernment communications; and, if so, whether such government class or classes of communications shall be applicable to all the established departments, independent establishments, and agencies in the legislative, executive, and judicial branches of the Federal government, or whether they shall be applicable only to particular departments, establishments, or agencies;

(3) What will be the just and reasonable charges to be observed, and what classifications, regulations, and practices are or will be just, fair, and reasonable for and in connection with United States Government domestic telegraph commpnications;

(4) The nature and extent of the priority, if any, to be accorded United

[1] Western Union proposed no change in the present reduced full rate applicable to United States Government messages between the United States and Mexico.

States Government domestic telegraph communications;

(5) The regulations and practices to be followed by respondent carriers with respect to liability to the United States Government and to others for failure of delivery, delayed delivery, incorrect transmission, or other acts resulting in injury or damage, in connection with the carriers' handling of United States Government domestic telegraph communications.

Western Union and all carriers concurring in the suspended tariff schedules were made party respondents to the proceeding. A hearing in the matter was scheduled to begin in Washington, D. C., on September 22, 1947, and the Commission's telegraph committee, or one or more members thereof, was authorized to preside at the hearings, or otherwise to conduct the proceedings.

Copies of the Commission's order were served on the respondent carriers; the various departments, establishments and agencies in the legislative, executive, and judicial branches of the Federal government; the National Association of Railroad and Utilities Commissioners; the Public Utility Commissions of the states and of the District of Columbia; the governors of Iowa, Delaware, and Texas; and the labor unions representing Western Union employees.

On July 28, 1947, Western Union filed a petition for reconsideration of the Commission's order of July 24, 1947, urging that the Commission modify its order so as to permit the proposed rates to become effective on August 25, 1947, and offering to make appropriate refunds in the event there should be established a government class or classes of communications, with charges and regulations therefor different from those for corresponding nongovernment communications; further, it offered to continue the present priorities accorded government messages until that issue is finally determined. On July 31, 1947, the Commission denied the petition for reconsideration, stating that it was desirable that the United States Government users be given an opportunity to be heard with respect to the proposed increased charges and elimination of priority before any changes in the existing tariffs of Western Union might become effective.

Public hearings were held herein in Washington, D. C., from September 22 to September 24, 1947. The hearings were held before four members of the Commission, which constituted a quorum thereof. The Commission invited the National Association of Railroad and Utilities Commissioners to participate coöperatively in this proceeding, pursuant to the coöperative procedure in effect between the NARUC and this Commission.[2] Sitting with the Commission was a coöperating state Commissioner who had been designated by the NARUC, Commissioner Harvey B. Apperson, of the State Corporation Commission of Virginia. Commissioner Apperson advises: "I am not in accord with the conclusions expressed in the majority opinion, but on the contrary agree with the conclusions expressed in the dis-

[2] The New York Public Service Commission, a nonmember of the NARUC, had also been invited to participate coöperatively, but it advised that it was unable to accept the invitation.

senting opinion of Commissioners Walker and Durr, in which dissenting opinion I concur."

At the hearing, evidence was presented on behalf of Western Union and the United States Government. Oral argument was held before the Commission on September 24, 1947, immediately after the conclusion of the testimony.[3] Counsel for Western Union and the United States Government participated in the argument. At the argument, counsel for RCA Communications, Inc., a respondent carrier as to traffic with Mexico and Miquelon, stated that it concurred in and supported Western Union's position.[4] There was also presented at the argument a letter from the Navy Department in which opposition was expressed to an increase in United States Government telegraph rates until congressional approval could be secured for necessary budgetary increases. In addition, the Navy Department stated its opposition to elimination of the present United States Government priority; and stated further that the government should stand in the same position as the commercial user with respect to the carriers' liability for mishandling of messages.

At the conclusion of the oral argument, the filing of proposed findings of fact and conclusions was waived and the matter was submitted to the Commission for final decision on the testimony and argument.

Present United States Government "Domestic" Telegraph Rates

The rates in question here are those for interstate United States Government telegraph messages within the continental United States, and for United States Government messages between points in the continental United States and points in Alaska, Canada, Newfoundland, Labrador, Miquelon, and Mexico. Western Union's proposal did not include the elimination of the reduced rate presently applicable to United States Government full rate messages between the United States and Mexico, apparently because it is obliged to give the Mexican Government such a reduced rate on its messages. The rates currently applicable to United States Government interstate telegraph messages within the continental United States are 80 per cent of the rates applicable to commercial communications in the corresponding classifications (i.e., full rate, day letters, night letters, and serial messages), subject to certain specified minima. With respect to telegraph messages between the continental United States and the other places named above, the tolls accruing to Western Union are the same as those from regular commercial messages for its share of the transmission less 20

[3] On August 28, 1947, the Commission had ordered that oral argument should be held immediately upon the conclusion of the taking of the evidence, and that the parties should be prepared to proceed accordingly.

[4] The only other carrier which expressed any position in this proceeding was The Commercial Cable Company, which was a respondent carrier as to traffic with Newfoundland and Labrador. In a written response dated August 14, 1947, this carrier stated its position was that the United States Government should pay the same rates for its full rate and code traffic as are paid by commercial users, provided that lower rates are not accorded to other governments on messages between the same points; and that it favored affording priority to United States Government messages over messages of other customers in the same category, but suggested that such priority be accorded only when the sender specifically requested priority on the message.

per cent (except that such reduction is 50 per cent on full rate telegrams between the United States and Mexico), subject to certain specified minima, and the through charge to the government is reduced accordingly. The present differential for United States Government full rate messages, day letters, and night letters was established pursuant to Commission Order No. 116, effective July 1, 1943; the present differential for serial messages was established July 1, 1935. Between January 1, 1940, and July 1, 1943, the government base rates, except for serial messages, had been 60 per cent of commercial rates, and for many years before that, these government base rates were 40 per cent of commercial rates. See Commission's Report of June 4, 1946, in Docket No. 7445, Re Western U. Teleg. Co. 64 PUR NS 216; Re Western U. Teleg. Co. (1939) 7 FCC 589.

In the above-cited report of June 4, 1946, the Commission considered a proposal by Western Union to eliminate the United States Government rate differential. The Commission then found, upon a review of the history of the legislation which provided for a domestic telegraph merger (§ 222 of the Communications Act, enacted March 6, 1943), that Congress had indicated a desire to preserve special reduced rates in some form for government telegraph messages; that the question of whether the government rate differential should be narrowed should be given further study; and it was concluded on that record that the government rate differential should remain unchanged.

Legislative Background of Present Proceeding

Western Union filed the tariffs in issue here as a result of the repeal, effective July 26, 1947, of the Post Roads Act of 1866, as amended (Revised Statutes, §§ 5263–5269, inclusive; U. S. Code, Title 47, §§ 1–6, inclusive, and 8). That act provided, among other things, as follows (Revised Statutes, § 5266; 47 USCA § 3):

"Telegrams between the several departments of the government and their officers, relating exclusively to the public business, in their transmission over the lines of any telegraph company to which has been given the right of way, timber, or station lands from the public domain, *shall have priority over all other business at such rates as the Federal Communications Commission shall annually fix.* No part of any appropriation for the several departments of the government shall be paid to any company which neglects or refuses to transmit such telegrams in accordance with the provisions of this section: *Provided,* That nothing in this section shall limit the authority of the Federal Communications Commission, under § 201(b) of the Communications Act of 1934, as amended, with respect to the classification of communications and the prescribing of different charges for different classes of communications, and such authority of the Federal Communications Commission to fix rates for government communications may be exercised with respect to any or all communications to which § 201(b) of the Communications Act of 1934, as amended, and this section apply: *Provided further,* That the term 'government' as used

in § 201(b) of the Communications Act of 1934, as amended, and the term 'departments of the government' as used in this section, shall be held to refer only to the established departments, independent establishments, and agencies in the legislative, executive and judicial branches of the Federal Government." (Italics supplied.)

On March 7, 1947, S. 816 was intriduced in the United States Senate. This bill read as follows:

"That § 210 of Title II of the Communications Act of 1934, as amended, is amended by adding after paragraph (b) the following:

"(c) Notwithstanding any other provision of law, including the provisions of § 3 of Chap 1 of title 47 of the United States Code, § 5266 of the Revised Statutes, as amended, but subject to the provisions of this section, the full applicable commercial rates or charges shall be paid for communication by any carrier subject to such act of telegrams between the several departments of the government and their officers, relating exclusively to the public business."

The above bill was sent by the Senate Committee on Interstate and Foreign Commerce to the various government agencies for comment. In reply to that request, this Commission submitted a draft of a proposed substitute bill, for reasons set forth in a letter to the committee.[5] S. 816 was subsequently revised by the Senate Committee to conform with the draft suggested by the Commission, and as so revised it was enacted on July 16, 1947, as Public Law 193, 80th Congress, 1st Session. This legislation reads as follows:

"That the Post Roads Act of 1866, as amended (Revised Statutes, §§ 5263–5269, inclusive; 47 USCA §§ 1–6, inclusive, and 8), is hereby repealed.

"Section 2. Nothing in this act shall limit the authority of the Federal Communications Commission under the provisions of the Communications Act of 1934, as amended, to prescribe charges, classifications, regulations, and practices, including priorities, applicable to government communications.

"Section 3. This act shall take effect on the tenth day following the enactment date thereof."

In the previously cited reports of both the Senate and House Committees the following statement is made about S. 816 in the form in which it was enacted:

"The purpose of the bill is to repeal the Post Roads Act of 1866, which, among other things, provided for a mandatory special rate in the handling of domestic telegrams sent by government departments and officials. This bill does not arbitrarily prohibit a lower rate for domestic government telegrams; it merely gives to the regulatory agency, the Federal Communications Commission, the same authority with respect to fixing charges, classifications, and priorities on such government telegrams that it now has with respect to all commercial messages."[6]

[5] The letter and draft of bill are reprinted in full in the reports of the Senate and House Committees on Interstate and Foreign Commerce on S. 816, Senate Rept. No. 282 and H.R. Rept. No. 715, 80th Congress, 1st Session.

[6] It is further stated in both committee reports:

Western Union's Presentation

Western Union contends that with the repeal of the Post Roads Act, the necessity for "preferential" rate treatment of government telegraph messages has disappeared. It argues that apart from the Post Roads Act no valid reason has been suggested for this "preference." Denying that the present proceeding involves "a rate increase hearing in the usual sense," it claims that this is simply a matter of eliminating an unlawful discrimination in domestic telegraph rates. It is submitted that since the repeal of the Post Roads Act the present government rate is prima facie discriminatory, and that by filing the new tariff schedules it was merely proposing to remove a discrimination it considered unlawful. Its presentation of evidence, according to its description, fell into two parts. First, it endeavored to show that no sound basis exists for establishing special rates applicable to United States Government domestic telegraph traffic; that government traffic differs from the average public message pattern no more than does the telegraph traffic of other large groups of users concentrated in various cities, just as government activity is concentrated in Washington, D. C.; and that, therefore, a continuation of the differential is discriminatory. Second, it claimed that the only feasible manner, in view of the company's financial situation, to remove the discrimination, is to increase the government rates to the level of the commercial, as proposed in the suspended tariff schedules, rather than by a lowering of the commercial rates to the government level.

Western Union points out that the "government" is actually not a single telegraph user, but each department and establishment is a customer to which separate bills are rendered. It presented an exhibit showing that in June 1947, it rendered 6,847 bills to government offices located in every state of the Union, as well as the District of Columbia. Although Western Union has no single commercial account as large as that of the United States Senate, the next 10 largest government accounts range from $2,100 to $15,600 for June 1947, while the 10 largest commercial accounts for the same month range from $6,400 to $16,900. It introduced as an exhibit a comparison of the message telegraph traffic statistics of seven groups of large commercial users, located in various cities, with that of government traffic originated in Washington, D. C., as well as a comparison of system-wide United States Government traffic with system-wide public traffic. It places main reliance on this exhibit to justify its assertion that gov-

"As a practical matter, the effect of the bill, if enacted, would be to put the Western Union Telegraph Co. in the same position as any other communications carrier with respect to the fixing of rates on traffic. The government would have the same rights as any other class of customer to appear at rate hearings and contend for special rates of particular types of service. The Federal Communications Commission is not required by this legislation to fix the same rate for government traffic as is charged for other commercial traffic. By the same token, the government could, and in many cases probably will, contend that on the basis of volume of business it is entitled to a lower rate for certain kinds of service. The regulatory agency would have the authority to consider all of the facts in establishing rates and classes of service. But the committee believes that it is desirable and in the public interest that the mandatory provision established by law, eighty years ago, that the Western Union Co. grant special rates be abolished."

ernment telegraph usage is not unique, does not differ significantly from that of large commercial users groups, and is, therefore, entitled to no special rate consideration. It argues that the government, by claiming that it is entitled to lower rates because of its usage pattern, is merely at the same time making a case for other users having similar traffic patterns. It insists that it is impossible to make a valid study which would enable it to ascertain the cost of any particular segment of its business, and maintains that to base a rate schedule on differences in cost among groups of users is inherently unsound and impracticable.

Western Union denied that the government's cost analyses, hereinafter described, had any validity. By cross-examination it sought to show that the government's exhibit showing the additional profit of 2.5 cents per government full rate telegram involved estimates of operator productivity and operator wages, which if incorrect, would completely invalidate the analysis. Western Union also sought to show that the method used in the exhibit would necessarily determine the total cost per word (including all costs associated with message handlings) rather than the word-handling cost per word as the government witness claimed, and that applying this total word cost amount (1.2873 cents per word) to every full rate telegram leads to the inescapable conclusion that Western Union would show a profit of some $73,000,000 in 1946 on one classification of service (i.e., full rate) whereas the company actually had an over-all loss of $11,000,000 in that year.

Western Union offered a series of financial exhibits in which it concluded that upon the basis of estimated operating results for 1947, adjusted to exclude the effect on the volume of its telegraph business of the national telephone strike in April and May, and giving full annual effect to certain wage and rate increases which have taken place at various times in 1947, as well as to the proposed elimination of the government rate differential, its rate of return on net plant (gross book cost of plant less depreciation allowances), plus an allowance for working capital, would be 4.11 per cent before Federal income taxes, and that after an allowance for Federal income taxes at the 38 per cent rate,[7] its return would be 3.14 per cent. In this connection, Western Union estimated that its revenue from United States Government "domestic" telegraph messages in 1947 would amount to $3,156,000 and that the elimination of the differential applied to this figure would produce about $790,000 in additional revenue, of which $642,000 would be from messages subject to this Commission's jurisdiction and the remainder would be from intrastate messages.[8]

[7] Because of a "loss carry forward" Western Union does not expect to pay income taxes for 1947 in the amount shown in its rate of return exhibit. It stated, however, that this credit was of a nonrecurring nature.

[8] It was the Commission's position that rates fixed under the Post Roads Act applied to intrastate as well as interstate messages. Repeal of the Post Roads Act means, as the Commission pointed out in the above-mentioned letter to the Senate Interstate and Foreign Commerce Committee regarding S. 816, that the Commission would no longer exercise jurisdiction over intrastate government telegraph messages.

A Western Union witness testified that tariffs providing for the application of commercial rates to intrastate United States Government telegraph messages had gone into effect in 36 states, which account for approxi-

In addition to likening government traffic to that of other large users, it was testified on behalf of Western Union that:

"There are special practices and conditions which apply to the handling of government messages which do not apply in the case of commercial messages. These practices deal principally with the acceptance, priority handling, separate filing, separate rating, and separate billing of government messages, all of which require special instructions apart from those applying to commercial messages, to our field operating forces.

"Aside from these special practices, which, of course, make for some extra and additional work, there are no fundamental differences in the method of handling as between government and commercial messages. Terminal handling practices—that is, pick-up and delivery by tie-line, telephone, or messenger—and operating transmission practices are identical."

Western Union offered no evidence as to possible diversion of government telegraph business as the result of the proposed elimination of the rate differential, it being stated that it was willing to take its chances in this regard, but that it was not believed that it would lose the business.

The Government's Presentation

The government asserts that under § 204 of the Communications Act, the burden of proof was upon Western Union to show that the proposed increased rates are just and reasonable, and that it has failed to sustain the burden in this proceeding. It argued that the classification of government traffic as a separate category did not violate any prohibition against discrimination, especially in view of the express reference in § 201(b) of the Communications Act to "government" as a classification of communications. It stated that apart from this, however, it would show that the present government rates are not unjustly and unreasonably discriminatory.

The government claimed that balanced utility rate schedules must be so designed that each class of customers can find its appropriate place according to its usage pattern, and that unless this is possible, the rate structure is especially inequitable to the customer with special traffic characteristics. It contends that the government traffic pattern departs significantly from that of the general public, which warrants its being given special treatment in a properly constructed rate schedule, not because it is the government, but to the same degree that any other customer with similar characteristics would be entitled to such treatment. The government alleges, however, that Western Union's present rate structure is so unbalanced and inequitable to the users of its class, that it would be unfair, as the company proposes, to raise its telegraph costs to the level applicable to the general public. Until the rate structure is redesigned, when there would be no need for a so-called discount for government or for press use, it says that it will be necessary to have "makeshifts" such as discounts and special rates, so that classes of customers whose use characteristics differ substantially from those of the general run of customers receive equi-

mately 78 per cent of United States Government intrastate telegraph revenue.

table consideration; more or less by chance, it is indicated, the government is accorded equity in the total charges for its telegraph usage as a whole under the present differential. The government points, among other things, to a statement in Western Union's Report on its Trial Rate structure, submitted to this Commission on June 1, 1947, as follows:

"Moreover, since the rates for most other telegraph message services furnished by the company are directly related to the public full rate, day letter, or night letter rates, the latter must be fixed and determined as a preliminary to consideration of the rates for such other message services. This applies particularly to United States Government rates, press rates, and money order rates."

The import of this statement, the government declares, is that a proper "government" rate can only be a component of an otherwise balanced rate structure. It was the government's position that until the rate structure is properly adjusted, no increases in government rates are justifiable.

In connection with its proposition that the government, like every other class of users, is entitled to rates which are tailored to the distinctive characteristics of its traffic, and in support of its assertion that the attributes of government telegraph traffic distinguish it from ordinary commercial traffic and entitle it to rates different from those now applicable to the latter, the government introduced testimony and exhibits designed to show that on the average the government, as contrasted with the general public, sends longer messages, over shorter distances; and that with respect to government full rate telegrams, there accrue, on the average, greater revenue, and more profit per message, to Western Union.

Thus, from the government exhibits, based on data procured from the company, it appeared that the average commercial full rate telegram consists of 14.2 chargeable words while the average government full rate telegram is 27 words long, or 12.8 words longer; that at existing rates the average revenue per government full rate telegram was $1.12 and per commercial telegram 93 cents, a difference of 19 cents; that if the government rates were increased to the commercial rate level the average revenue from government full rate telegrams would rise to $1.40, or 47 cents more than the revenue from the average commercial telegram; and that the median mileage haul for government telegrams was 270 miles; for commercial, 360 miles.[9] A series of cost analysis exhibits was introduced by the government, designed to show that after consideration of all direct costs and all overhead plus an allowance for return, assignable to the additional words, but without regard to the saving in cost attributable to the shorter haul, the 12.8 words by which the average government full rate telegram exceeds the average commercial telegram, costs the company 16.5 cents, leaving to the company 2.5 cents profit out of the 19 cents additional revenue from the average government full rate telegram.[10] In the government's

[9] About 65 per cent of Western Union's government message traffic consists of full rate messages.

[10] The government introduced other exhibits based on data secured from Western Union to show profits to Western Union that were somewhat less than 2.5 cents per government full rate telegram in some cases and consid-

view, this is a reasonable estimate of the amount by which the average government full rate telegram is more profitable to Western Union than the average commercial full rate telegram and confirms its claim that the characteristics of government traffic justify the existing differential. The government emphasized that to increase the government rate so that the revenue from the average government full rate telegram would be $1.40 would afford the company an inordinate profit on government traffic and create a patent inequity. The government pointed out that its cost analyses were not based on any incremental or out-of-pocket cost theory, but on the assumption that government traffic should bear its share of fully distributed costs. While it was not claimed that any cost study may pretend to split-fraction accuracy, the opinion was expressed that these analyses were meaningful and their results usable. The government contradicted Western Union's statement that studies of the costs of various services were impracticable, and declared that the company was equipped and in a position to make such studies.

The government took issue with the conclusions attempted to be drawn by Western Union from the comparisons with other groups of large users. From the data presented by Western Union in this connection, the government calculated that Western Union receives at existing rates from government traffic originating in Washington, D. C., revenue per word slightly in excess of the average revenue per word from seven commercial groups studied by Western Union. It was stated on behalf of the government that if government rates were increased, Western Union would receive about 30 per cent per word more from government traffic than from the commercial groups studied. This eventuality was characterized as an "obvious discrimination." The government argued further that Western Union's method of comparison is invalid for rate purposes because the company does not compare traffic which is similar in all respects with government traffic, and because it assumed that the rates with which government traffic is compared are themselves just and reasonable.

Finally, the government introduced what it called the "value of service" factor through testimony and exhibits intended to portray Western Union's competitive position with respect to other communication services, both at existing and at proposed government telegraph rates. The purpose of this evidence was to demonstrate the value of telegraph service to the government in the light of alternative services available to it, and that Western Union was inviting a serious loss of traffic by proposing to increase its rates to the government.

Determination Concerning the Proposed Rates

[1–5] The Commission is of the opinion that little weight should be given to the factor of burden of proof under the particular circumstances of this case. The present United States Government domestic telegraph message rates were prescribed by the Commission under authority of the Post Roads Act, and the Commission was not required to, nor did it, fix these

erably larger than this amount in other cases, at existing government rates.

rates with regard to usual rate-fixing standards or factors. Also, in prescribing rates under the Post Roads Act, the Commission has given weight to benefits to Western Union under that act. The repeal of the Post Roads Act removes the grounds upon which the present government rates were fixed. Accordingly, it is the Commission's view that the decision in this case should not turn on who has the burden of proof, but, instead, on the question as to whether there is a sound basis for a differential in domestic telegraph message rates in favor of the United States Government, as compared with commercial users.

The United States Government originates a relatively small part of Western Union's telegraph message traffic. It appeared from a sample survey conducted by Western Union that the Federal government, together with city, county, and state governments as a group, accounted for only 1.9 per cent of Western Union's total message traffic for January, 1947, and 1.6 per cent of such traffic for June, 1947. In terms of revenue, United States Government domestic telegraph messages accounted for about $279,000 in June, 1947, as compared with Western Union's total domestic telegraph message revenue of about $15,000,000 in that month. As a source of message volume, the United States Government appears to be comparable with such industries as amusements (movies, broadcasting, etc.), meat packing, fuels, and rubber. Certain other industries have substantially greater volumes of telegraph message traffic, the transport, and the electrical and radio products and appliances, industries, for example, originating 5.4 per cent and 4.0 per cent, respectively, of Western Union's total message business for June, 1947. Also, as noted in the previous summary of Western Union's presentation, although it has no single commercial account as large as that of the United States Senate, which averages $19,600 per month, the next ten largest government accounts range from $2,100 to $15,600 for June, 1947, while the ten largest commercial accounts for the same month range from $6,400 to $16,900.

The United States Government cannot, in our opinion, be regarded as one customer or user so far as Western Union's domestic telegraph message services are concerned. In June, 1947, 889 Western Union main offices located throughout the United States in every state and the District of Columbia rendered 6847 bills to United States Government agencies. In June, 1947, less than one-half of Western Union's revenues from United States Government domestic telegraph message traffic, or about $112,000 out of a total of about $279,000, was derived from billings to United States Government agencies in Washington, D. C., and 448 bills were rendered there in the one month. The United States Government is made up of many different kinds of telegraph users, with varying demands and needs for telegraph service. By way of illustration, the Weather Bureau's use of telegraph service can hardly be compared with that of the House of Representatives.

Generally speaking, the handling given by Western Union to United States Government domestic telegraph messages is the same as that given commercial messages, with the exception of the special handling to assure

the priority required for government messages. With this exception of priority, a government telegram would be accepted for transmission, transmitted, and delivered by the same methods as any other telegram. Of course, apart from the message handling methods, special records and practices on the part of Western Union are necessary for billing purposes which may not be required for other charge account customers.

The government, in its presentation, averaged out the characteristics of United States Government domestic full rate telegraph messages, and, on this basis, found special characteristics of length of message and distance of transmission varying from the general averages for commercial messages. One of the exhibits introduced by Western Union showed, however, on the basis of a 3-day study in August, 1947, a comparison of the traffic characteristics of messages originated by the United States Government in Washington, D. C., with messages originated by seven groups of commercial patrons in other cities, namely, aircraft in San Diego, automobile in Detroit, insurance in Hartford, meat packing in St. Louis, motion picture in Los Angeles, rubber in Akron, and steel in Pittsburgh. Although the government traffic was greater in volume than the traffic of any one of the seven groups, the message characteristics of government traffic fit somewhere in between extreme limits of the message characteristics of the commercial users, as shown in the following table:

	Traffic of the U. S. Government at Washington, D. C.	Traffic of the Seven Commercial Groups in Various Cities (Range)
Average No. chargeable words per message	32.9	18.3 to 42.4
Average No. free words per message	14.1	8.4 to 17.1
Average W. U. tolls per paid word	4¢	3.7¢ to 5.6¢
Percent: Paid words to total words	70%	52.2% to 78.8%
Percent of traffic filed by tieline or tube	67.7%	61.4% to 100%
Average W. U. tolls per message	$1.312	$0.92 to $1.787
Percent: Full rate telegrams to total messages	68.7%	48.4% to 75.1%
Median rate zone of messages	60¢ zone	36¢ zone to 90¢ zone

The government claimed, as previously mentioned, that its full rate telegrams averaged 27 chargeable words, as compared with 14.2 chargeable words for the average full rate telegram for commercial users, and that it, like any other sender of long telegrams, is entitled to a rate structure tailored to this characteristic. It claimed further that until such a tailored rate structure became available to senders of all long messages, the present 20 per cent discount should be retained as to government messages. In connection with the government's position that all long messages, whether commercial or government, should be accorded the same reduced rates, it is noted from the record that if we should look at only those commercial full rate telegrams of 16 words and over, these too average about 27 words in length and are therefore substantially similar in characteristics to government traffic. The record shows that about 50 per cent of the commercial full rate words and 27 per cent of commercial full rate mesages are in this category, and would be entitled, according to the government's rate-mak-

ing theory, to the same rates as are accorded the government. However, there is nothing in the record to indicate that Western Union could afford to give a 20 per cent discount on 50 per cent of its commercial full rate traffic, bearing in mind the extremely high ratio between Western Union's expenses and revenues.

As previously indicated, the government presented testimony and exhibits showing cost analyses based on the average length of United States Government domestic full rate telegrams which were intended to show that government full rate telegrams are more profitable to Western Union than are commercial full rate telegrams. We are unable, however, to place any reliance on these analyses. They require major assumptions as to operator wages and productivity, without any showing as to the validity of such assumptions. The questionable character of these assumptions is evidenced by the fact that the government's cost analyses resulted in a figure of average cost for handling every word in every message, both paid and free words. Application of this per word cost figure to every commercial full rate telegram produces mathematically a profit of some $73,000,000 in 1946 for Western Union on its commercial full rate telegrams alone, whereas Western Union actually incurred a substantial over-all operating loss in that year.

The Commission recognizes the materiality of cost factors in dealing with a particular service classification. In view, however, of the relatively small proportion of government traffic, and the fact that there do not appear to exist any characteristics of government traffic which sufficiently indicate now that it costs less to handle such traffic, as compared with a substantial portion of commercial traffic, we do not think that action on the government rate differential should be deferred for the extended period of time that would be required to complete a proper cost study.

The Commission is sympathetic to the government's contention that Western Union's rate structure should be so constructed that users, whether government or commercial, with different service characteristics may find rates which fit such characteristics. On June 1, 1947, Western Union submitted to the Commission a trial rate structure for intra United States telegraph message service, and the company has been making studies of the effect of such a new structure. The Commission is of the view that it is in connection with such an over-all revamping of Western Union's rate structure that consideration ought to be given to the particular use characteristics urged by the government.

The Commission is of the opinion that the rates for United States Government domestic telegraph messages should be at the same level as those of commercial users. On the basis of the record, and upon consideration of the facts discussed above, we find that there is no such difference between United States Government domestic telegraph messages and those of various commercial users as would justify a differential in rates as between government and commercial users. We think that the differential should be removed by raising the government rates to the level of the commercial rates. The government traffic is a very small part of total traffic. It

would not be reasonable to adjust a nation-wide rate schedule under which almost 99 per cent of Western Union's message traffic moves in order to accommodate a little more than 1 per cent of the traffic, particularly since the resulting total return to Western Union after an increase in rates for the latter traffic will still be within the limits of reasonableness.

With respect to the government's presentation as to possible diversion of traffic as a result of an increase in government rates, Western Union indicated it was willing to take its chances, contending that it was pressing for elimination of the government rate differential not as a revenue-producing measure but to remove an unlawful discrimination. Although it is reasonable to expect that elimination of the government telegraph rate differential may result in some loss to Western Union of government traffic, we do not consider that this should require the continuance of the rate differential for which we have found no sound basis.

The Commission is of the opinion that the above findings and conclusions are fully supported by the record. We want to point out, however, that on the whole we think Western Union's presentation fell far short of the standards of care and thoroughness in preparation and presentation which the Commission is entitled to expect from those appearing before it.

Priority and Liability Issues

[6] Two of the issues prescribed in our order of July 24, 1947, herein, relate, respectively, to the matters of (1) the priority, if any, to be accorded government telegraph communications, and (2) the liability of the respondent carriers for mishandling of government messages.

The government expressed concurrence in Western Union's proposal, to which effect is given in the carrier's tariff schedules, that it would assume the same liability with respect to United States Government telegraph messages as it assumes in connection with any other message. When the Post Roads Act was in effect, Western Union contended that its liability with respect to the handling of government messages was governed exclusively by the provisions of that Act. It appears to be just and reasonable, in the absence of any showing of special circumstances to the contrary, that in the handling of United States Government telegraph messages, Western Union should be subject to the same liability as in the case of any other message. It should be clearly understood, however, that in so concluding, we are not hereby making any determination as to the justness and reasonableness of the liability which Western Union has been assuming as to other messages.

[7] With respect to priority, Western Union was obliged under the Post Roads Act to accord priority to United States Government telegraph messages. In the new tariff schedules in issue here, Western Union proposed to eliminate any provision for priority of United States Government "domestic" messages as such. At the hearing, it proposed that as to government full rate and serial messages, priority in handling would be accorded any such message where priority as to the particular message is specifically requested by the sender. The government concurred in this proposal.

This proposal appears to be just and reasonable. There are obviously government messages of such public import that they should receive the fastest possible handling, which means priority in all handlings. The sender of the message should be in a position to know whether priority is required. On the other hand, there are undoubtedly some government messages receiving priority because of the requirement contained in the Post Roads Act although such messages could be handled without priority, without detriment to the purpose of the message. Provision for priority for only those government messages which require it should mean better handling for those messages, since there should be fewer priority messages. In the carrying out of its proposal as to priorities, however, Western Union should preserve at least equal priority for United States Government telegraph messages with that for messages of other governments.[11]

Conclusions

On the basis of the record herein and the foregoing findings, the Commission is of the opinion, and finds and concludes that no justification appears for a different rate for the United States Government "domestic" telegraph messages at issue herein than for commercial messages in the corresponding service classifications; and that such differential should be eliminated by raising the United States Government message rates to the level of the commercial message rates, as Western Union proposes to do in its tariff schedules suspended by the Commission's order of July 24, 1947, herein. The suspension of such tariff schedules will therefore be lifted. Since the period of suspension of a new tariff schedule is, under § 204 of the Communications Act, discretionary with the Commission, so long as the period does not exceed three months, and, in view of our findings and conclusions herein, no reason exists for continuance of the suspension, the lifting of the suspension will be effective immediately.

Western Union should also file revisions of its effective tariff schedules relating to United States Government "domestic" telegraph communications, to provide that priority in handling will be accorded to full rate and serial United States Government telegraph messages, provided the sender expressly requests priority for the particular message. Western Union should assume the same liability in connection with the handling of United States Government telegraph messages as is assumed with respect to other messages; no tariff revisions appear to be necessary now to accomplish such assumption of liability.

An appropriate order shall issue.

Commissioners Walker and Durr dissenting; Chairman Denny not participating.

ORDER

At a session of the Federal Communications Commission held at its of-

[11] In this connection it is of interest to note that the International Telecommunication Convention which has just been signed at Atlantic City provides in Art. 36 as follows:

"Subject to the provisions of Article 45 [Distress calls and messages], Government telegrams shall enjoy priority over other telegrams when priority is requested for them by the sender. Government telephone calls may also be accorded priority, upon specific request and to the extent practicable, over other telephone calls."

fices in Washington, D. C., on the 23rd day of October, 1947;

The Commission, having under consideration the record herein, and having also under consideration its report this day made and filed herein;

It is *ordered,* that the report so made and filed is made a part hereof by reference, and adopted as the report of the Commission herein;

It is *further ordered,* that to the extent that the Commission's suspension order of July 24, 1947, herein, applies to proposed new charges for United States Government "domestic" telegraph communications, such suspension order is hereby canceled and the suspension lifted, effective immediately;

It is *further ordered,* that The Western Union Telegraph Company's new tariff schedules which were suspended by the Commission's order of July 24, 1947, are hereby canceled in so far as such tariff schedules provide for the elimination of priority in respect to United States Government telegraph communications;

It is *further ordered,* that The Western Union Telegraph Company shall file an amendment to its tariff schedules applicable to United States Government "domestic" telegraph communications, to provide for priority in the handling of United States Government full rate and serial telegraph messages, provided the sender expressly requests priority for the particular message; and The Western Union Telegraph Company is given permission to file such a tariff amendment effective on not less than one day's notice to the Commission and to the public.

WALKER and DURR, Commissioners, dissenting: We are of the opinion that the proposed increased charges of Western Union for United States Government telegraph messages should be canceled. Western Union has not shown that these increased charges are just and reasonable, and we are unable to determine from the record that such charges are just and reasonable.

Section 204 of the Communications Act of 1934, as amended, 47 USCA § 204, reads in part as follows:

". . . At any hearing involving a charge increased, or sought to be increased, after the organization of the Commission, the burden of proof to show that the increased charge, or proposed increased charge, is just and reasonable shall be upon the carrier. . . ."

This language is plain and provides for no exceptions. The proposed new government rates of Western Union fall squarely within the above language of the act. It is recognized that the existing government rate differential grew out of the administration of the Post Roads Act. Nevertheless, the attempt to eliminate the differential is clearly within the above-quoted statutory prescription. It is apparent from the legislative history of the repeal of the Post Roads Act, reviewed in the majority opinion, that such repeal did not in and of itself mean that the United States Government telegraph rate differential was to be eliminated.

The Commission has on many previous occasions enunciated the kind of burden imposed by § 204 of the act. It was incumbent upon Western Union to discharge this burden by presenting affirmative, concrete, and

persuasive evidence that the proposed rates are just and reasonable.[1] Western Union was clearly advised by the Commission's order instituting this proceeding that a principal issue was whether its proposed new United States Government telegraph message rates were just and reasonable. In addition, § 201(b) of the Communications Act expressly permits the establishment of a "government" classification of communications with rates different from those for other classes of communications, just as this section names "press" and other specific classes, with the same provision as to rates.[1] The mere existence of a government rate lower than the commercial rate, therefore, does not constitute an unlawful discrimination.

In our consideration herein of the case presented by Western Union we have had the advantage of more than the written record, since we have been present at the taking of the evidence. In our opinion, Western Union's presentation was most superficial and unconvincing, apart from any consideration of burden of proof; it certainly did not meet the burden imposed by § 204.

We cannot believe that with a volume of traffic as large as that represented by government use, and with the ample time Western Union has had to prepare the matters at issue here, Western Union is unable to develop detailed data with respect to its position that it is in fact unjustly and unreasonably discriminatory to accord a lower rate to the government than to other users; that is, that Government traffic and that with which it was compared involve the "like communication service" as to which § 202(a) of the Communications Act prohibits discrimination. Instead of such detailed data, Western Union presented testimony and exhibits in which the most general kind of comparisons were made, without the establishment of any firm basis as to the significance or validity of the comparisons upon which it relied. The generalities of Western Union's evidence were not persuasive that the unlawful discrimination contemplated by § 202(a) of the act is present.

The superficiality of Western Union's presentation was strongly pointed up by the presentation on behalf of the government. The government's testimony and exhibits cast serious doubt on the merits of Western Union's position. The government, relying on data secured from Western Union, not only directly challenged the validity of the comparisons advanced by Western Union, but raised affirmatively the facts that government telegraph messages have certain characteristics of length of message and distance of transmission and that government telegrams were relatively more profitable, all of which called for different rate treatment.

[1] Re Postal Teleg.-Cable Co. (1941) 9 FCC 75, 76; Re Illinois Bell Teleph. Co. (1943) 10 FCC 9, 12; Re Western U. Teleg. Co. (1944) 10 FCC 323, 328.

[1] "All charges, practices, classifications, and regulations for and in connection with such communication service, shall be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is hereby declared to be unlawful: *Provided*, That communications by wire or radio subject to this act may be classified into day, night, repeated, unrepeated, letter, commercial, press, government, and such other classes as the Commission may decide to be just and reasonable, and different charges may be made for the different classes of communications. . . ."

Western Union made no affirmative rebuttal by way of evidence, choosing to rely on cross-examination and argument.

Whatever defects Western Union might have brought out in the government's presentation, Western Union could not thereby cure the weaknesses in its case. Thus, for example, although Western Union argued against the validity of the cost analyses presented by the government, Western Union made no claim either way as to the relative profitability or handling cost of government telegrams. Western Union professed to be unable to say whether government traffic is being carried at a loss or at a profit.

The Commission has allowed Western Union to coast through problem after problem, and to skirt its legal obligations under the act. The result has been to make futile our hearings in Western Union cases. Western Union should not be permitted to rely on the Commission to perform for it the company's obligations under the act. This is not the function of a regulating agency. We think Western Union's failure to make adequate showings, as in this case, is in plain disregard of its responsibilities under the law.

We are of the opinion that Western Union has not, on the record herein, sustained its burden of showing that the proposed increased charges in issue here are just and reasonable, and we are unable to find, on the record, that such charges are just and reasonable. Accordingly, the tariff schedules providing for such proposed increased charges should be canceled.

We concur with the majority in its conclusions with respect to the priority and liability issues in this proceeding.

CONNECTICUT PUBLIC UTILITIES COMMISSION

Re New Haven Gas Light Company

Docket No. 7969
September 24, 1947

APPLICATION *for authority to extend fuel adjustment clause to all sales of gas to users of 100 or more cubic feet of gas per month; authority granted.*

Rates, § 303 — Fuel adjustment clause — Increased labor and material cost.
A manufactured gas company was authorized to extend its present fuel adjustment clause to all sales of gas to users of 100 or more cubic feet of gas per month, where increases in labor and material costs affecting the cost of manufacturing and distributing gas would impair the company's ability to give adequate service to its customers.

By the COMMISSION: The New Haven Gas Light Company, which distributes gas in the metropolitan area of New Haven, was recently author-

ized by the Commission (Docket No. 7855 dated January 14, 1947, 67 PUR NS 103) to file amendments to its six rate schedules, covering its gas service, by including therein a fuel adjustment clause applicable to the sales of gas to all customers whose monthly consumption is 5,000 cubic feet of gas per month or in excess thereof. The order of the Commission in its Docket No. 7855, *supra,* provided that the company should not apply the fuel adjustment clause to sales of gas below 5,000 cubic feet per month without first obtaining the written approval of the Commission.

Under date of July 1, 1947, the New Haven Gas Light Company requested the Commission to approve the extension of the fuel adjustment clause to all sales of gas to users of 100 or more cubic feet of gas per month. In its application the company stated it had hoped under the fuel adjustment clause, limited in its application to users of 5,000 cubic feet of gas or more per month, to absorb the difference in cost and still maintain its financial integrity without extension of the clause to lower-use customers. However, increases in expense apart from the rise in base coal cost have required it to make the application, it stated, in order to fulfill its obligations to its customers.

Upon the foregoing the Commission ordered a hearing to be held at the Aldermanic Chambers, room 25, City Hall, New Haven, Connecticut, on Wednesday, August 6, 1947, beginning at 10:30 A. M., Daylight Saving Time (9:30 A. M., Eastern Standard Time), which hour, at the request of parties in interest, was subsequently advanced to 7:00 P. M., Daylight Saving Time (6:00 P. M., Eastern Standard Time) at the place and on the date above stated. At said time and place the New Haven Gas Light Company appeared by its president and counsel. The mayor of the city of New Haven, Honorable William C. Celentano, appeared and made a statement that the application should not be granted unless the need for the extension of the fuel clause should be clearly established. William Dimenstein, alderman, 24th Ward, city of New Haven, also appeared, and the following residents of the metropolitan area of New Haven: George Aransky, Harry Cyphers, Anthony J. Suraci, and Alfred E. Tong.

The New Haven Gas Light Company purchases about 80 per cent of its annual requirements of gas from The Connecticut Coke Company at New Haven under a long-term contract between the two companies. The agreement between the parties provides that the base price of coal to be used to determine the excess cost of coke oven gas shall be $5.90 per gross ton. The price of coke oven gas as charged by The Connecticut Coke Company was subject to control by the Office of Price Administration until November 16, 1946, on which date the Office of Price Administration removed all controls on the price of coke oven gas. With the removal of price controls, the cost of coal used in the manufacture of coke oven gas increased from $6.47 per gross ton to $8.25 per gross ton, the price current at the time of the hearing in Docket No. 7855, *supra,* and to $8.70 per gross ton, the price current at the present time. This price of $8.70 does not reflect any increase that may take place as a result of the recent increase in wage levels in the bituminous coal field. During this

same period the price of coke and oil used by the New Haven Gas Light Company in producing gas, required by the company to supplement its purchase of gas from The Connecticut Coke Company, has also increased.

The fuel adjustment clause approved by the Commission in its Docket No. 7855, *supra,* was designed to recoup for the company approximately $186,000 annually or about $54,000 less than the increased cost of purchased gas and manufactured gas, at that time, using as the base price, $6.45 per gross ton of coal for purchased gas and $8.07 per net ton for coke, and 4.1 cents per gallon for gas oil used in the manufacture of water gas.

At the time of the hearing on the present application the company supplied figures which showed that the 1947 cost of purchased gas had increased $361,416 over costs in 1946. Of this amount, however, the company would expect to recoup only $279,594, inasmuch as the difference of $81,822 between that recoupment and $361,416 represents increased costs of wages and taxes on certain quantities of gas purchased under the terms of the contract with The Connecticut Coke Company. According to the fuel adjustment formula such items cannot be included as charges and therefore have been eliminated. The company also submitted figures which showed that the costs of generator fuel and oil increased in 1947 by $43,855 over 1946. Further, wage levels and other material costs directly related to the manufacture of gas have increased $123,016 in 1947 compared with 1946.

The above figures show the increases in costs of 1947 over 1946, the need for additional revenue and the reason for extending the fuel adjustment clause. In Docket No. 7855, *supra,* the Commission established a base of $6.45 per gross ton for coal in its purchase of gas, $8.07 per net ton for generator fuel, and 4.1 cents per gallon for oil used in the manufacture of water gas. Multiplying the quantities of generator fuel and oil used in the manufacture of water gas and the coal gas differential for purchased coke oven gas, by the difference between the present cost and base prices of such fuels respectively, it is estimated that for the sales of gas expected in 1947 the increased cost of fuels would be approximately $420,000. Of this amount the company is already recouping about $186,000 on an annual basis by means of its present fuel clause, and, by applying the same fuel clause to all users of gas of 100 cubic feet or more, the company would be receiving from its customers approximately $220,000 additional. Therefore, the fuel clause in its wider scope would return to the company about $406,000 annually based upon its 1947 operations.

In order to add to its gas manufacturing facilities, the company has materially increased its investment in the recent past, having been authorized by the Commission on March 10, 1947 (Docket No. 7898), to borrow $2,000,000, through the issuance of bonds, to finance necessary additions to its plant and distribution system. The company has expended approximately $1,500,000 of borrowings up to the present time from the proceeds of this bond issue in effecting additions to its plant. This investment will gradually increase the cost to the company of supplying gas in view of the

maintenance and depreciation requirements upon that substantial addition to its plant.

Considerable statements and general objections were made at the hearing by individuals, either as representatives of residential customers of the company, or in their own behalf. The objectors recognized the upward trend in the company's labor and material costs but expressed the hope and thought that the increases should not be passed on to consumers, even in part, in view of the general increases in the prices of goods and services being presently incurred by the general public.

The Commission had hoped that the initiation of a fuel adjustment clause on a limited basis would avoid the extension of the clause to the average residential customer. The company itself had expected to avoid that extension as indicated by its statement of position in the earlier proceeding (Docket No. 7855 dated January 14, 1947, *supra*). However, events beyond the control of the company and the increase in labor and material costs, as above referred to, leave the company no alternative other than a consideration of a general rate increase in order that the company's ability to give adequate service may not be impaired. From a regulatory standpoint it would be shortsighted not to recognize these increases in labor and material costs affecting the cost of manufacturing and distributing of gas otherwise under prevailing price levels the company's ability to give adequate service to its customers, its first obligation, would be impaired in a short time.

From the evidence presented at the hearing, and based upon the foregoing, the Commission finds that the New Haven Gas Light Company should be, and it hereby is, authorized to extend the application of its fuel adjustment clause on file with the Commission (in accordance with Commission Docket No. 7855 dated January 14, 1947, *supra*) to all sales of gas to users of 100 or more cubic feet of gas per month, the extension of said clause to become operative for all bills rendered on and after October 1, 1947.

We hereby direct that notice of the foregoing be given by the secretary or an administrative assistant of this Commission by forwarding true and correct copies of this document to parties in interest, and due return make.

FEDERAL POWER COMMISSION

Re Consolidated Gas Utilities Corporation

Docket No. G-883
October 9, 1947

APPLICATION *for certificate of public convenience and necessity under § 7 of the Natural Gas Act for construction of facilities; dismissed.*

Certificates of convenience and necessity, § 53.5 — When required — Gas compressor station.

A field booster compressor station to be located adjacent to gas wells owned by a natural gas company, to be used in the gathering of natural gas, does not constitute a facility for which a certificate of public convenience and necessity is required under the provisions of § 7 of the Natural Gas Act, 15 USCA § 717f, where the only physical connection between the main transmission pipe line and gathering lines extending to all gas wells is at a certain station and all gas produced and gathered from the wells is delivered into the main transmission pipe line at that point.

By the COMMISSION: On March 31, 1947, Consolidated Gas Utilities Corporation (applicant) filed with the Commission an application, which was supplemented by a further filing on September 29, 1947, for a certificate of public convenience and necessity pursuant to § 7 of the Natural Gas Act, 15 USCA § 717f, as amended, authorizing construction and operation of the following described facilities:

(a) A field booster compressor station with a rated capacity of 900 horsepower to be located adjacent to certain gas wells owned by applicant in the Panhandle Gas Field in Wheeler county, Texas.

(b) Approximately 41 miles of 12-inch pipe line, beginning at or near applicant's Enid Compressor Station in Garfield county, Oklahoma, and extending northeasterly to a point of connection with applicant's existing 10-inch pipe line in Section 9, Township 27 North, Range 1 West, Kay county, Oklahoma.

Applicant is a "natural-gas company" within the meaning of the Natural Gas Act, as heretofore found by the Commission in its order of January 4, 1944, in Docket No. G-365 (4 FPC 477), and owns and operates, among other facilities, a natural gas transmission pipe line extending from a point known as "Pitsch Station," located in the Panhandle Gas Field, Wheeler county, Texas, in a northeasterly direction through the states of Oklahoma and Kansas, to Lyons, Kansas.

Applicant owns 58 producing natural gas wells in the Panhandle Gas Field, 12 of which are located south

of "Pitsch Station" and presently have sufficient well-head pressure that the gas produced and gathered therefrom is delivered into applicant's main transmission pipe line at "Pitsch Station" without field compression. The remaining 46 gas wells are located north and east of "Pitsch Station," and the well-head pressure of these wells is such that field compression is necessary in order that the natural gas produced therefrom may be gathered and delivered into the main transmission pipe line. Applicant owns and operates all gathering lines extending to these 58 gas wells.

Applicant owns and operates a field booster compressor station, located about 6 miles northeast of "Pitsch Station." The proposed field booster compressor station, described in subparagraph (a) above, will be located approximately 2 miles east of "Pitsch Station," on existing suction and discharge gathering lines. Applicant proposes that all of the natural gas produced and gathered from its 46 gas wells located north and east of "Pitsch Station" will be compressed by the present and proposed field booster compressor stations and then delivered into applicant's main transmission pipe line at "Pitsch Station." The only physical connection between applicant's main transmission pipe line and the gathering lines extending to all of applicant's gas wells in the Panhandle Gas Field is at "Pitsch Station," and all gas produced and gathered from these wells is delivered into applicant's main transmission pipe line at that point.

The Commission, having considered the application and the supplement thereto, and the records of the Commission with respect to the matters involved herein, further finds that:

(1) The facilities described in subparagraph (a) above are proposed to be used in the gathering of natural gas and a certificate of public convenience and necessity authorizing the construction and operation thereof is not required under the provisions of § 7 of the Natural Gas Act, as amended.

(2) The application filed herein should be dismissed in so far as the same pertains to the facilities described in subparagraph (a) above.

The Commission, therefore, *orders* that:

The application filed herein be and the same hereby is dismissed in so far as the same pertains to the facilities described in subparagraph (a) above.

Industrial Progress

A digest of information on new construction by privately managed utilities; similar information relating to government owned utilities; news concerning products, supplies and services offered by manufacturers; also notices of changes in personnel.

IBM Introduces Electric Card Stencil Typewriter

INTERNATIONAL BUSINESS MACHINES CORPORATION recently announced a new electric card stencil typewriter as the latest addition to its line of electric typewriters. The machine has a special carriage for holding and feeding card stencils and is also provided with a frame for holding a backing strip or roll to protect the platen from defacement, as well as a separate record strip roll holder which may be utilized to keep a carbon record of the stencils cut. A carbon-faced backing roll may be used to facilitate the reading of the completed stencils.

All the advantages of IBM electric typing have been incorporated in the Electric Card Stencil Typewriter.

Murphy Named Vice President In Charge of Sales by I-T-E

THE I-T-E CIRCUIT BREAKER COMPANY, Philadelphia, has announced the election of Roy E. Murphy to vice president in charge of sales. He will be in charge of I-T-E sales programs, and coördinating the combined selling of I-T-E and its subsidiary, the Railway and Industrial Engineering Company, Greensburg, Pennsylvania.

Mr. Murphy has been associated with the I-T-E Company since 1934, as sales manager and member of the board of directors. Prior to his association with the I-T-E Company, Mr. Murphy had been identified with the sale of electrical products as sales manager for the Esterline-Angus Instrument Company, Indianapolis, and as operator of the Pittsburgh sales agency for that company, and other instrument manufacturers.

"Clean Waters" Chosen World's Best Sponsored Film

"CLEAN WATERS," a motion picture pointing out the dangers of water pollution and the need for adequate sewage treatment, has been selected as the world's best commercially sponsored film at the International "Films of the World Festival" in Chicago. The 16-mm. full color and sound picture was produced by the General Electric Company in coöperation with the U. S. Public Health Service at Raphael G. Wolff Studios in Hollywood.

Previously named by Festival judges as one of the world's six outstanding sponsored pictures, "Clean Waters" was chosen Grand Festival Winner by vote of the audience previewing these previously judged films. Sixty-three industrial and commercial organizations entered films in the competition.

AGA Publishes Volume Of "Gas Facts"

A LARGE amount of valuable factual data covering the gas utility industry has been assembled for the first time in a single 176-page volume, "Gas Facts," which has just been published by the Bureau of Statistics of the American Gas Association. Completion of this work, which gives a comprehensive statistical record of the gas utility industry in the United States for 1945 and 1946, marks an important milestone in the development of authoritative source material for ready reference. It is the first in a new series of annual statistical year books which will be published by the Association.

The book's nine sections and 150 tables give accurate, up-to-date information on gaseous energy reserves; production, transmission, distribution, sales, and utilization of manufactured, natural, mixed, and liquefied petroleum gases; and price, labor, and financial data on the industry. Much of the material is new and all original information is based upon tabulating and classifications of data reported to the Association in its "Annual Report of Gas Operations."

In addition to the original data, this volume,

includes a large amount of information from other sources which has a direct bearing on the gas utility industry.

This volume is the culmination of more than two years of study, analysis, and revision of the gas industry's statistical program—undertaken to fulfill the requirements of the present-day business world. In its preparation, the Association has sought and received the suggestions and advice of many leaders in finance, investments, insurance, and statistics. Much of the groundwork was laid by the A.G.A. Committee on Development and Use of Gas Industry Statistics and the Working Statistical Subcommittee, the chairmen of which have been since 1945, respectively, Robert E. Ginna and Harry A. Weitzman, both of the Rochester Gas and Electric Corporation.

Copies of "Gas Facts" have been distributed to gas company members of the Association. Additional copies are available to them and others at $1.00 per copy. Orders should be addressed to Bureau of Statistics, American Gas Association, 420 Lexington avenue, New York 17, New York.

Promotions at Silex

J. H. Townsend has been appointed sales manager of The Silex Company to succeed J. M. Moore who is leaving the housewares industry to accept the presidency of a company in another field of business. Simultaneously Paul R. Curtis was promoted from the sales staff to become assistant sales manager, the post formerly held by Mr. Townsend, it was announced by Charles H. Newman, vice president of The Silex Company.

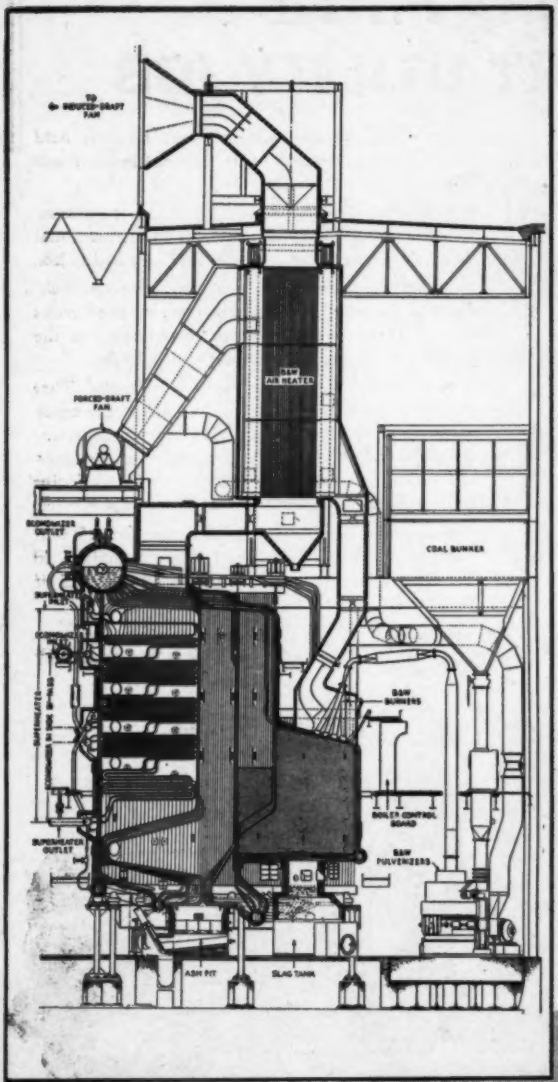
Before joining The Silex Company in 1944, Mr. Townsend for twenty-two years conducted sales operations in the public utility field, including supervision of branch office selling, study of trends, market and product research, for the Union Electric Company of Missouri, St. Louis County Gas Company, and Cities Service Company of Kansas.

MSA Announces New Portable Carbon Monoxide Tester

Among the new safety products recently announced by Mine Safety Appliances Company, Pittsburgh, Pennsylvania, is the MSA Carbon Monoxide Tester.

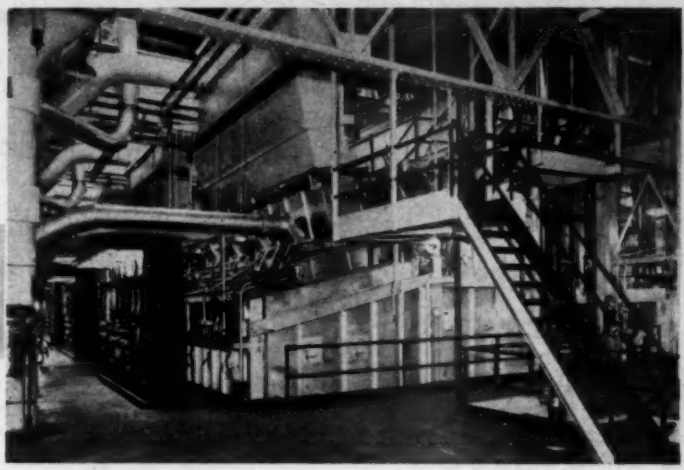
This instrument, utilizing indicator tubes developed by the National Bureau of Standards, is designed to determine the presence of deadly carbon monoxide concentrations in air, and employs the most advanced colorimetric method of CO detection. Simple in operation, and requiring no special training to use, it is said to be capable of indicating the presence of carbon monoxide from 0.001 to 0.10 per cent by volume in air.

The MSA Carbon Monoxide Tester is adapted to surveys of industrial atmospheres, garages, bus terminals, public utility mains and conduits, artificial gas plants, and wherever the accurate determination of low concentrations of carbon monoxide is desired.



10 YEARS of service satisfaction

Three Open-Pass Boiler Units of this design are on order for the Cincinnati Gas & Electric Company. Each will generate 250,000 lb. steam per hour at 1400 psi and 910 F.



Firing deck of Open-Pass Boilers in West End Station where three new boilers of same type will also be installed.

with Open-Pass Boilers at CINCINNATI GAS and ELECTRIC COMPANY

Ten years ago B&W introduced the Open-Pass Boiler for central station service. The first unit of this type was installed in the West End Station of the Cincinnati Gas and Electric Company. Today, this utility has a total of ten Open-Pass units in service or on order with an aggregate steam capacity of 3,400,000 lb. per hour. Ten years' experience with these units — featured by their high availability during the strenuous war years — affords ample proof that the Open-Pass Boiler satisfactorily meets all requirements for which it was designed . . . proof of its soundness and applicability to a wide variety of operating conditions.

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Post hole digger operated from the "Power-Wagon's" tail shaft.

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Perhaps you've seen this spectacular "Power-Wagon" at work; smoothly moving over the highways, with 2-wheel drive. Or, with 4-wheel drive, moving across fields . . . through sand and mud . . . going places and doing jobs that no other truck could tackle.

Perhaps you've seen its power applied to belt-driven equipment by means of its rear pulley drive—or applied to the operation of post hole diggers and other appliances with its powerful tail shaft drive.

Perhaps you've seen its strong, dependable winch stretching wire, pulling rocks, elevating poles, or equipment to the tops of poles—or pulling out mired trucks.

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4-wheel drive gives the "Power-Wagon" tremendous traction and pulling power.

Pulling rocks or mired vehicles, elevating materials, are just a few uses for the powerful winch.

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- 4-speed Transmission—2-speed Transfer Case (8 Forward Speeds —2 Reverse Speeds).
- Heavy-duty, Double-acting Shock Absorbers.
- High Traction Tread Tires: Std. 7.50/16, 8-ply; extra 9.00/16, 8-ply.
- Amola Steel Springs: Front—39 in., 11 leaves; Rear—52½ in., 13 leaves.
- Air-O-Ride Seat Cushion (adjustable to passenger weight).
- Seat Width—50⅝ inches.
- V-Type Ventilating Windshield; Cowl Ventilator.
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Public Utilities FORTNIGHTLY

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to December 18, 1947

PUBLIC UTILITIES REPORTS, INC.
WASHINGTON, D. C.

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Subject Index

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